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06-23-05

Page 1 of 17
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RE: Case **09/978,215** and
also 09/812,664/ TC 3700

June 22, 2005

Mr. Carlos Gutierrez
Secretary of Commerce
1401 Constitution Avenue
Washington, DC 20230

cc: Mr. Jon Doll
Acting Commissioner for Patents

Mr. James Fleming
Chief Administrative Judge, BPAI

Dear Mr. Gutierrez:

This is a complaint letter. There are specific, clear complaints and accusations against the USPTO and different USPTO officers in this letter. That is the reason I address this letter to you, Mr. Secretary.

The complaints in this letter are extremely serious, with criminal connotations, as discussed below, and hence demand very careful attention and a thorough examination. An exhaustive probe is in order. There is no legitimate way around it. I have exhausted, at a great personal cost, all possible efforts to avoid having to come to this point.

I respectfully seek accountability for the complaints presented. I respectfully seek examination and appeal standards that preclude the incompetence, arbitrariness and abuse of authority displayed in this case and which respond to the Constitutional purpose of the USPTO, i.e.: To —truly— promote the advancement of the useful arts.

These complaints are absolutely independent from patent prosecution and patentability issues which I will continue to patiently pursue within the legal provisions, which have now placed this case at the Federal circuit level. But that is a completely separate and independent endeavor.

To be perfectly clear about it:

Even if at this point the case is allowed, or even if a legitimate and valid prior art or reason precluding patentability is actually presented, and I decide to abandon the application I will still pursue accountability for the gross incompetence, arbitrariness and dishonesty of Examiners

Stephen Garbe and Jes Pascua, which have resulted in a blatant violation of my right to a fair examination and a fair Appeal.

I hereby also present complaints against the Board members who decided to embrace **proven** false documents and flat-out failed to address extensive rebuttal arguments and evidence timely submitted, aggravated by many blatant false assertions and countless distortions of the facts and the statements I have submitted, to produce the false impression that they have acted fairly and lawfully.

I submit that the Board has in fact acted incompetently, unfairly and unlawfully. Please, refer to my Reply to Paper 46 of April 08, 2005, which is written in a highly diplomatic language, as the paper is to be published, and made available to the public.

The Board members in this case are:

Edward C. Kimlin, Catherine Timm and Beverly A. Pawlikowski.

Again, this letter is about the gross violation of my right to a fair examination and a fair Appeal, which I take very seriously. I also take very seriously the constitutional purpose of the Patent Office, which some PTO Officers seem to believe is to sustain an expensive bureaucracy, and the "examination" and "appeal" processes are satisfied by arbitrarily filling out forms and papers, and blindly spending resources financed by the very applicants who intend to 'promote the advancement of the useful arts'. As a pro-se applicant, as an American citizen, as a member of the public, and as an independent inventor I am committed to pursue these complaints to the last possible legal consequences, as I have indicated before.

I am fully aware that I have limited —only limited— my civil options by filing a notice of appeal before the Federal Circuit. It has never been my intention to profit from the unbelievable ineptitude, arbitrariness, arrogance and abuse of authority of most PTO Officers I have encountered.

This is all about **accountability**. As it has been absolutely proven that the PTO can not police itself, I respectfully present this complaint to you. I have also rescinded my original request for non-publication of the application, so this case is published and thus accessible to the public. The projected publication date is September 09, 2005. I intend to purchase a file wrapper of the case to verify its integrity. Obviously, I have not forfeited my right to seek media exposure, or broadcasting

online my complaints. I have gone much further than I anticipated and announced that I would go. I have done it at a great toll of personal time and money expenses devoted to this cause. The more I do about this, the more I feel obligated to continue my legal quest for accountability, because it is actually too late for Justice. These officers have violated my rights and unlawfully damaged my interests in a manner that at this point can not be repaired.

I have tried very hard to neutralize the dishonest, unlawful actions of different PTO officers at different levels, regarding this and another case —09/812,664, now US patent 6,814,656— (Three primary examiners, a Supervisory Examiner, Special Program Examiner and Director of TC 3700 included in the object of the complaints) with several Petitions, and with several letters addressed to Mr. James Groody. I could not be so blunt and straightforward about this if I did not have the entire record and additional correspondence to support me. (Copies of letters to Mr. Groody attached)

Mr. Groody's responses have evolved from non-sequitur-condescending letters; to contradicting 'hand-washing' statements, to ambivalent admissions of wrongdoing, asserting that 'disciplinary actions against the pertinent officers have been imposed', or something to that effect.

Yet the arbitrary, dishonest actions of these officers have rampantly continued and have actually grown in gravity and grossness, as if they had received reward and encouragement instead of the purported penalties and "disciplinary actions that can not be discussed due to Federal regulations", to paraphrase Mr. Groody.

The blatant, undeniable permissiveness and negligence of the Office related to my repeated complaints resulted in an unlawful decision by the BPAI, as such decision unlawfully failed to consider my Reply Brief and Supplemental Appeal Brief, as clearly transpires from the Board's introduction to its decision of Mar. 31, 2005 and by the absolute silence throughout the Appeal process related to these papers which totaled 31 pages, and that the Board's decision relies on proven false, hence unlawful documents by the two Examiners in this case.

After the obvious tampering with the record by Examiner Jes F. Pascua, posted at <http://www.geocities.com/pto3700/978215> ; it is clear that Mr. Pascua, managed that the subsequent papers disappeared before they could be examined by the Board.

I hereby accuse Mr. Jes F. Pascua of tampering with these papers. How is it possible that Examiner Pascua sends me a paper on 08/27/04 asserting that the case was sent to the Board, I make

repeated calls to the Board, and nobody there knows anything about the papers, then on 09/23/04 the supervisory Examiner leaves me a message that the case is at the TC, and that will be sent to the Board?

As the Board of Appeals never, ever addressed these so critical papers, its unsubstantiated after the fact assurance that they were considered (contradicting its own introduction in "Preliminary Matters" of Decision on Appeal --Paper 46-- where these papers are excluded) is a transparent attempt to cover up the sabotage, and the Board's own incompetence as the Board did know of the papers existence, yet it did not bother to address them in the decision of January 28/05 (Paper 44), or care to find out whatever happened to them if they were missing, or request new copies, or do anything about it.

This silence is alarmingly significant. Especially in light of previous experiences with TC 3700. Please, see <http://www.geocities.com/pto3700>

The Board's bias is readily evident by all the pro-Examiner distortions and false assertions in its paper of Mar. 31 (Paper 46), e.g. that the Board responds to "each of Appellant's numbered paragraphs in the same order as numbered in the request, as indicated by each heading". **This is a false contention.** The Board did not address items numbered 8. iii; 8. v.; And 8 viii, not to mention the distortion of items 8. ii and 8. vii (Please see paper 47 --Request For Rehearing of April 08, 2005-- . Please, read this paper. Please, read it.) There are many more falsehoods and distortions in Paper 46. For whatever reasons, Paper 46 is rampantly committed to validate paper 40, and all its false statements.

It is unbelievable and unacceptable that Judges invested with the authority and responsibility to impart justice can actually break the law to support and cover up injustice and incompetence. I hereby formally accuse the Board Panel serving this case of improper and incompetent conduct.

Please, see copy of Paper mailed April 08, 2005, which again, was written in the most possible diplomatic language, as it is a document for publication.

As this is a complaint letter, it is necessary to obviate diplomacy and euphemisms. The Board has distorted **all** of my statements, the board has presented **false testimony** as it claims that it has addressed all the issues I raised in my Request for Rehearing when in fact the Board opted to ignore and bypass the most critical arguments which categorically prove the invalidity of the references. All

of this is easily verifiable by comparing the documents.

After proven false and dishonest, the Board still invoked documents issued by two PTO Examiners who should be facing criminal charges under USC Title 18, Part I, Chapter 47, Sec. 1018, as follows:

USC Title 18, Part I, Chapter 47, Sec. 1018. Whoever, being a public officer or other person authorized by any law of the United States to make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not elsewhere expressly provided by law, shall be fined under this title or imprisoned not more than one year or both.

And also under Title 18, Part I, Chapter 73, Sec. 1702, as follows:

Title 18, Part I, Chapter 73, Sec. 1702. Whoever corruptly or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either house or any joint committee of the congress.

It is impossible not to consider malice. Given the harmony of unlawful actions and inactions of different PTO's entities and officers in this case it is impossible not to consider conspiracy, or at least unlawful favor trading.

An objective thorough examination of this complaint letter will reveal that the last thing in the minds of these officers is justice, or even less the promotion and advancement of the useful arts, as the congress mandates the PTO. It is clear they are all about protecting their own independent and collective bureaucratic interests.

This is an absolute disgrace. This is unacceptable. The saddest part is that the Public knows very little about this. Please, establish accountability. Please provide adequate penalties, to deter this type of behavior and lack of ethics.

I have to be proactive. **I want to be very, very straightforward and unequivocal about my complaints, to prevent any attempts to distort, manipulate, dismiss or trivialize my very serious and grave complaints, by any member of the PTO, as it has happened in the past. For that reason, I make it a point to be reiterative and very blunt about the complaints.**

All my complaints are substantiated by undisputed and undisputable FACTS on the record. Let us

summarily recap these **FACTS** with the following partial list. Note the emphasis on the word partial:

FACT: Examiner Garbe acted with defiant arbitrariness, as Examiner Stephen Garbe violated 37 CFR 1.112 and 1.114. Please, refer to Summary of Interview of Nov. 22, 2002 by Applicant (Copy attached)

FACT: Examiner Garbe lied on the record. Examiner Garbe produced a false interview Summary, as Examiner Garbe reported things that did not happen and failed to report things that did happen during the interview. Examiner Garbe failed to note the complaints presented regarding his arbitrary actions, his failure to examine and address all the materials submitted, and his unlawful refusal to enter the Substitute Specification.

These complaints are proven in my Summary of the Interview of Nov. 22, 2002.

Examiner Garbe stated that all claims were discussed, which is a false statement. Examiner Garbe failed to report the Exhibit discussion, which Applicant requested to be examined and compared with Exhibits of other cited references; amounting to a lie by omission (suppresio veri); and Examiner Garbe also lied by assertion (assertio falsi), by stating that no Exhibit was presented. The Exhibit was actually presented in advance, so Examiner Garbe had it in its possession during the interview, and furthermore, a specific request to examine and compare it with the other references was presented during the interview. Please, read Examiner's Garbe interview, and then read my Summary of Interview, which was never disputed, objected or denied, constituting therefore irrefutable evidence of the falseness of Examiner Garbe's report. Please, do that.

FACT: Lying in a public writing is a very serious criminal offense, with very serious penalties. See USC Title 18, Part I, Chapter 83, Sec. 1702

FACT: Tampering with public records is a very serious criminal offense, with very serious penalties. See USC Title 18, Part I, Chapter 73, Sec. 1702.

FACT: Examiners Jes Pascua and Stephen Garbe prepared a grossly mala fide Examiner's Answer to Appeal Brief, with potentially devastating effects, if I had not been wary of their qualifications (or better stated, lack of qualifications) as Patent examiners. Specifically, refer to the false contention that Appellant did not include a statement of the grouping of claims.

(The Board's improper support of their actions resulted all the same in damaging effects, for Applicant, the public, and the patent system)

FACT: Never mind all the other documents in the record, my Summary of Interview of Nov. 22, 2002 just by itself constitutes conclusive proof of the incompetent, arbitrary and dishonest actions of Examiner Garbe.

FACT: My Supplemental Reply Brief of July 28, 2004 just by itself constitutes unequivocal evidence of the incompetent, arbitrary and dishonest actions of Examiner Pascua. Never mind all the subsequent documents in the record.

FACT: My Reply to Paper 46 (2nd Request for Rehearing) just by itself is definite evidence of the Board's partiality, and the Board's distortions, manipulations, omissions and false contentions. There was not one single argument I submitted that was fairly portrayed by the Board. Not one. Never mind the ones that were selectively excluded.

FACT: All the reasons for rejections affirmed by decision of paper 46, were rebutted in my Reply Brief of September 08, 2003.

FACT: Not one single argument in that Reply was acknowledged, much less addressed by the Board in the decision of Paper 46.

FACT: My Supplemental Appeal Brief of July 28, 2004 is a compilation of the faults, deceptive actions and false statements in Examiner Pascua's response of July 20, 2004 to the Remand by the Board of June 29, 2004 (Paper 39).

FACT: All the reasons supporting rejections by Examiner Garbe through three years of prosecution were thrown out the window, and completely new reasons to support the rejections were presented by Examiner Pascua, in violation of 37 CFR 1.193 (a).

FACT: I exhaustively pointed this out as a violation of patent law, and as an obvious admission that reasons for rejection by Examiner Garbe were invalid. I also categorically disputed all the new reasons presented by Examiner Pascua supporting the rejections, as they lack any validity. None of this was ever contested.

FACT: In most cases the new arguments supporting the old rejections are flat-out a defiance of the

most basic common sense. Notoriously the contention that 'an envelope's body is mono-sectional' because it was made from a sheet of material. This is absurd, and this is just a mild adjective to describe the contention. While this issue relates to patentability, it also illustrates the unbelievable ineptitude of the Examiners, and that is why I discuss it in this complaint letter.

FACT: Examiner Pascua dishonestly suggests that the contention that an envelope was mono-sectional 'because it is generated from a unitary sheet of paper' had already been presented during prosecution. The suggestion is absurd, as it is impossible that the 'unitary' sheet remains 'monosectional' upon producing the body (container) of an envelope, but that is an appeal issue. The issue here is the falsehood of the suggestion. Such notion (absurd or not) was never before presented.

FACT: Most of the arguments presented by me were completely ignored by new Examiner Pascua. Please see entire Reply Brief of September 08, 2003. (Copy attached) This paper was never at all addressed by any PTO officer. This is a perfectly good time to examine it, if only for the sake of the investigation requested herein. *(Then, it should result fascinating to realize that I yet had to write a "Supplemental Reply Brief" because the Board decided to act as if "Paper 40" is the defining, conclusive piece of documentation in this case, and nothing submitted before or after it is worthy of any consideration.)*

FACT: I clearly pointed to these blatant omission as proof of concession by the Examiner, as the submitted arguments can not be disputed.

FACT: Examiner presented some comments related to the Petitions submitted by me during prosecution, suggesting that they were excessive or unwarranted.

FACT: I categorically disputed and protested the implications of Examiner's comments, in my Supplemental Reply, addressing all of them in a very detailed manner.

FACT: I clearly pointed to the Board that the number of Petitions were a result of the unbelievable *(They are unbelievably unbelievable. This is Ripley's Material)* contradicting actions and incongruent errors by the Director's Office in rendering its decisions. The handling of my petitions is an anthology of irresponsible and arbitrary actions by the Director of TC 3700 and her staff. See "New Issues" of Reply Brief (Sept. 08, 2003), starting on #4); Pages 8-10.

See my paper of May 25 , 2003 (Request for Rectification of Paper #29); see my paper of July 05, 2003, in response to paper #33. (Copies attached)

FACT: The Board remanded the case with very specific instructions to urgently and meticulously address all the issues raised by me. (Page 4 of paper 39; conclusion of paper 39 on page 5)

FACT: Examiner Pascua fooled the Board. Examiner Pascua presented a deceiving document, recycling its text from previous paper, inserting page numbers here and there to give the illusion that the paper was responsive to the Remand. The paper is virtually an exact duplication of the previous paper by the Examiner, minus the page numbers inserted here and there and some added false statements and fillings. This is an insult to decency. This is fully documented in my never acknowledged Supplemental Reply Brief of July 28, 2004.

FACT: in my Supplemental Reply Brief of July 28, 2004 I exposed Examiner's Pascua violation of the Board's instructions, the deceiving intent of his text manipulation, and his gross lies.

FACT: No paper was received for a long time. (*Remember the instructions by the Board to act on this case immediately*)

FACT: I called Examiner Pascua, and he told me he was sending the case to the Board.

FACT: on 08/27/04 I received a paper signed by Examiner Pascua, stating that the case had been sent to the Board.

FACT: I made many calls to the Board, and there were always uncertain and evasive answers about the status or location of the case. This is very significant, as the log of the case reported that the case (and obviously, all of its papers were at the BPAI)

Based on my experiences with TC 3700 related to case 09,812,664 and their dishonest practices, I started to get preoccupied. Please, see <http://www.geocities.com/pto3700>.

I hereby again request an investigation of the way case 09/812,664 now US Patent 6,814,656 was handled, and all the sabotaging actions and fraudulent attempts I had to overcome as already reported, and severe penalties to the responsible individuals once accountability is established. Responsible individuals include Primary Examiner Eileen Morgan III, Supervisory Examiner Joseph Hail, and Group Director Eileen Rollins-Cross. These Officers

have all categorically conceded their responsibility with their silence about my blunt, straightforward complaints of their dishonest actions.

FACT: On 09/23/04 I left a message for the Supervisory Examiner asking him to call me (*and asking him not to have Examiner Pascua call me*) about the case. The outcome of my message is published at <http://www.geocities.com/pto3700/978215>

FACT: Paper 42 was yet another false paper by Examiner Pascua. He obviously sent me this false paper to keep me distracted, by leading me to believe the Board already had the case, when in fact he had never sent the case to the Board.

FACT: Supervisory Examiner actually sent the case to the Board. It is impossible to know at this point what papers were sent and what papers were not sent.

FACT: Based on the Decision by the Board, it is transparently clear that the Board did not receive my Reply Brief or my Supplemental Brief. The now submitted (and not credible) contention by the Board that it did receive it, and if that is in fact true, is a categorical admission of its arbitrariness and irresponsibility by failing to thoroughly address them as it is its legal duty.

FACT: The board finally acted on the case, and made a decision, which is in its own words based on a number of papers, listed on the "Preliminary Matters" section of Decision of Jan. 28, which excludes my Summary of Interview of Nov. 22, 2002 and my Supplemental Reply Brief. The Reply Brief is mentioned in the "Preliminary Matters", but it is completely omitted in the discussion of the Decision, except an incidental and abstract reference in a footnote.

I clearly and exhaustively protested the Board's negligence to address these papers in both my Requests for Rehearing. I further submitted in the Rehearing of April 08, 2005 that the after the fact statements by the Board that the omitted papers were considered not only is not believable, (especially given its self serving effect) but it lacks any legal significance, as the papers were not addressed. I further submit hereby that the statement is false, and that it is intended to cover up the unlawful actions and omissions of the Examiners and as a result, to cover up the Board's own negligence in handling the Appeal in the first rounds.

This is the exact text of the Board, regarding the context of the documents considered and the circumstances of the case (Beginning on page 2 of Decision of Jan. 28, 2005 –Paper 44-
-;

I. Preliminary matters

As an initial matter, we review the prosecution history, which is summarized below.

The first Office Action was mailed on March 11, 2002 (Paper No. 4). In response to this Office Action of Paper No. 4, appellant conducted an interview and, thereafter, filed Amendment A on May 20, 2002 (Paper No. 6). The amendment included changes to the specification and a request to cancel all claims and to substitute them with new claims 23-44. In a response to the amendment, the examiner issued a final rejection that was mailed on June 20, 2002 (Paper No. 8). In this final Office Action, the examiner objected to the amendment filed on May 20, 2002 (Amendment A), indicating that the added material to the specification was new matter (the incorporation by reference of Application No. 09/130,534). The examiner rejected claims 23-44 in this final Office Action.

Subsequent to the mailing of this final office action, appellant conducted another interview on June 28, 2002 (Paper No. 9).

Appellant then filed a Request for Continued Examination (RCE) on Aug. 23, 2002 (Paper No. 10). This filing included an amendment B which included a substitute specification and a request to cancel all the claims of record, and the addition of new claims 45-70.

Subsequent to the filing of the above-mentioned RCE with Amendment B, the examiner issued a final rejection mailed September 11, 2002 (Paper No. 12). In this final rejection, the examiner refused to enter the substitute specification, and rejected claims 45-70. We note that it is these claims, as set forth in the Amendment B of Paper No. 11 (Claims 45-70), that are at issue in this appeal (i.e., these claims are the same claims as set forth in appellant's Appendix to the Brief, with the exception that claim 60 is not under appeal).

In response to the final rejection of Paper No. 12, appellant filed Amendment C, on October 17, 2002 (Paper No. 13). Appellant also filed a petition to admit a model (Exhibit A). Subsequently, the examiner filed an advisory action on October 25, 2003 (Paper No. 15), indicating that the proposed amendment (Amendment C) will not be entered and that Exhibit A will not be considered because it is not directed solely to issues which were newly raised by the examiner in the final rejection.

Subsequently, appellant conducted another interview on October 29, 2002 (Paper No. 16). In this interview, appellant argued that there was no new matter in the un-entered substitute specification or the claims and that the amendment after final (Amendment C) should have been entered.

On January 03, 2003, appellant filed a petition to the Commissioner and also filed a Notice of Appeal. An appeal brief was filed on March 7, 2003 (Paper No. 22). Several papers concerning the Petition, and Decision on Petition were filed (Paper No. 21, and Paper Nos. 23-33).

An Examiner's answer was filed on August 27, 2003 (Paper No. 35) subsequently appellant filed a Reply Brief on September 8, 2003 (Paper No. 36). The appeal was remanded to the examiner on June 29, 2004 (Paper No. 39). In the remand to the examiner, the board indicated that the Decision on Petition filed on June 2, 2003 stated that arguments "that applied to the claims and to exhibits and attachments of record in the application prior to the final rejection will be considered to be of record".

The decision on Petition filed on June 2, 2003 also indicated that the amended claims filed in Amendment C (the amendment filed on November 17, 2002, paper No. 13) are not of record. See page 1 of the Decision on Petition. Therefore, with respect to Amendment C, the Examiner was instructed, by the Decision on Petition, to consider arguments presented in Amendment C pertaining to the application of prior art that applied to the claims and exhibits and attachments of record in the application prior to the final rejection as these items are considered of record and available for consideration on appeal.

We note that the Decision on Petition of June 2, 2003 indicated that the Advisory Action dated October 25, 2002 refused entry of the Amendments of Amendment C, and that this refusal extends not only to the amendments but to any and all exhibits and attachments that were not previously submitted in the record prior to the filing of Amendment C. See fourth full paragraph on page 2 of the Decision on Petition.

Our review of Amendment B, filed on August 23, 2002 (Paper No. 11) shows that on page 15, attachments 11A, 11B, 12, 13 and 14 were submitted with Attachment B. Any arguments relating to these attachments that were presented in Amendment C are therefore deemed part of the record. Any arguments related to any other attachments or exhibits are deemed as not part of the record, and in fact, as indicated supra, the exhibits and attachments provided with Amendment C have not been entered according to the advisory action of Paper No. 15, mailed October 25, 2002, and according to the Decision on Petition of June 2, 2003. The decision on Petition also indicates that none of the substitute specifications² have been entered. In this context, **we therefore review the supplemental examiner's**

answer of paper No. 40, mailed July 20, 2004. (emphasis added)

FACT: Paper 40 (Examiner's answer) is completely unresponsive to my Reply Brief of September

08, 2003.

FACT: Paper 40 is a false document. This is proven in my Supplemental Appeal Brief, which the Board never addressed.

FACT: Paper 40 completely violated the Board's instructions in every possible manner. This is proven in my Supplemental Appeal Brief, which the Board never addressed.

FACT: The Board 'mentioned' my Reply Brief in the 'preliminary section', however there is not one single specific allusion to it in the decision.

FACT: There is no mention whatsoever in the Board's 'preliminary section' of my Supplemental Reply Brief which unveils the bogusness of Examiner's Pascua to the Board's remand. There is even less a discussion of the arguments therein.

FACT: In retrospect, the "Remand" now clearly appears as a biased smoke curtain, as the Board's blindly adheres to the false statements and deceiving actions in the Examiner's Reply (Paper 40), and completely ignores all the arguments in the very Appeal Brief which prompted the remand, pointing to the contradicting views of the Examiners. And furthermore, the Board unlawfully opted to ignore and be silent about my Supplemental Reply Brief.

FACT: It is clear that the Board "believes" or wants to "believe" or portray that it "believes" that the last document submitted during appeal was the "Supplemental examiner's answer of paper No. 40"

FACT: Even if "paper 40" was the last document of Appeal, Paper 40 does not respond to anything in my Appeal Brief, or my Reply Brief, which actually prompted the remand as Paper 40 is a recycle of the Examiner's answer plus a number of false statements, which were categorically denounced in my subsequent Supplemental Reply Brief.

FACT: The Board completely ignores not only my Supplemental Reply Brief in response to Paper 40, but actually ignores my Reply Brief which prompted the remand, and also ignores its own paper remanding the case to embrace this deceiving and bogus paper as dogma, as if that false document is the ultimate and defining exhibit of this case. **This is obscene.**

FACT: Paper 40 was categorically disputed, and proven as a false document that fooled the board.

The Board's efforts to cover up the fact it was fooled amounts to after the fact complicity.

FACT: Summary of Interview of Nov. 22, 2002 conclusively proves the incompetent, arbitrary and unlawful examination of this case. All that needs to be done to verify this statement, is to read this very brief document. The subsequent silence by the Examiner about it is further certification of this. But the Interview Summary is by itself enough to prove this, as it points to specific items in the record demonstrating the gross contradictions and negligent errors by the Examiner.

FACT: Summary of Interview by Applicant is not at all discussed in the "Preliminary Matters" leading to the context in which the Board rendered its decision of paper 46.

FACT: My Supplemental Appeal Brief of July 28, 2004, pointing to the false statements, deceiving presentation of the facts, failure to address a number of issues, and violations of the board's instructions by Examiner Pascua is also excluded from this "Preliminary Matters"

FACT: I replied to the Board, with a Request for Rehearing, pointing to these very critical omissions, and the obvious misapprehension of a number of arguments and evidence submitted, and using a very euphemistic language, also pointed to all the omissions, distortions and manipulations in the decision of Paper 46.

FACT: The Board failed to address any and all of the issues presented with my Supplemental Appeal Brief of July 28, 2004, and offered assurances that they have been considered.

These assurances lack any credibility. Especially in light of the fact that the Board continues to support the reasons presented by the Examiner after the remand, which are a duplication of the paper submitted prior to the remand. Thus, it is absolutely clear that not only the Board disregards the Supplemental Brief, but also the Reply Brief which prompted the remand.

This is further corroborated by the Board's gross distortions of my statements, the systematic manipulation of the facts and the law in favor of the Examiners, and particularly the false contention that all the issues I raised in my Request for Rehearing of February 05, 2005 were addressed by the Board in Paper 48.

FACT: The Board goes out of its way to distort, misquote, and manipulate my statements in a

manner that is consistently and rampantly in favor of the Examiner. Please refer to my "Reply to Paper 46. Request for Rehearing " paper of April 08, 2005. That paper was an earnest effort to avoid this Complaint letter. The Board replied to it by copying and pasting the arguments that were actually questioned; the arguments that prompted the request for rehearing. This is an insult to the most basic level of intelligence. This practice by Officers in the PTO, shielded in their authority is simply unacceptable. The epidemic characteristics of this trait among PTO personnel are very troubling.

This is in essence, the exchange:

Board: —Examiner says that the article is spherical. We agree with the Examiner.

Appellant: —Appellant submits that the article lacks bouncing properties.

Board: —We have carefully reviewed this and this and that and what have you, plus this and that, (*and we have to be believed, because we are The Board*) but we agree with the Examiner that the article is spherical, and hence we affirm the examiner.

That is it. Several years. Several thousand dollars, and that is the essence of the process.

FACT: The Board also distorts the law. The Board unbelievably assures in three separate instances that new rejections during Appeal are a petitionable matter. The only way to excuse bath faith here is to invoke absolute ignorance compounded with complete irresponsibility.

Even I, a lay-person acting pro-se, knows this to be false.

FACT: The board contention that it has examined Exhibit A (Model) and that it 'understands the invention' are irreconcilable, as the model has a one piece body, and the board argues that it has all the parts in FIGS 7B-7F.

FIGS. 7B-7F are not claimed structure. They are steps of use. The claims are product claims, not method claims.

The model does not show anything shown by FIGS. 7B-7F. Hence, the Board is lying about examining the model, about 'understanding' the invention or both.

FACT: in my Request for Rehearing of February 05, 2005 (page 4, #8., i), I made the following

clear, simple statements:

“The claimed invention is illustrated with FIG. 7A, and no other figure.

And FIG. 7a actually illustrates more than the claimed invention, because it shows some optional score lines, that only appear in dependent claims.

In addition to show how to produce the invention, the specification must also show how to use the invention. Hence, FIGS. 7B-7F. “

FACT: The Board managed to distort such a simple, clear and eloquent statement by claiming that I instead stated: that "there is confusion about the claimed invention by the Board because the Board refers to Figure 7A and no other figure.

FACT: That is at best, another incidence of unacceptable negligence, or at worst another instance of malicious distortion. If this is not manipulation, this is the most unbelievable level of ineptitude, that should instantly disqualify a person or group of persons from any judging duties.

FACT: The statement by the Board that it has addressed all the issues I raised in my Request for Rehearing of April 08, 2005 is not only inaccurate, as the issues that it purportedly addresses are a gross distortion of my statements, but is also false, as several extremely important issues raised in my paper have been selectively avoided by the Board, in clear concession that there is nothing that the Board can say about them, and still sustain its decision of Paper 46; namely:

- Request to Examine pages 28-30 in Amendment C, “What the Invention is” and “How to use the Invention” (Section 8, i, on second paragraph of page 5)
- Statement indicating that "If the issue is that the drawings show score lines, then the issue may merit a drawing objection, not a claim rejection" (Section 8, v, 3rd para. of page 6)
- Statement indicating that: "No individual artisan can be more representative of 'one skilled in the art' than the whole industry and the whole market segment of that industry. The definitions of the industry and market of the field of the invention and

the cited references (alleged prior art) have been clearly defined for the public (for generations) in the packaging of their products as follows:

- The packaging of a ream of paper says 500 SHEETS.
- A box of envelopes says: ENVELOPES - XYZ Count, wherein XYZ indicates the number of pieces in the box.

Please, verify this statement. There is no need to get out of the Office (or Building) for this. (Section 8, vii, beginning on 2nd para. of page 7.

- The statement indicating that "Board also misapprehends the simple fact that an envelope is a container, just like a box, and that just like a box, which is also generated from one single sheet, an envelope can not preclude the instant invention due to their radical and categorical structural differences.

FACT: Dishonesty, incompetence and irresponsibility are common traits among the many different Officers at different PTO hierarchy levels in this complaint letter, involving two separate applications, namely 09/978,215 and 09/812,664 (now US Patent 6,814,656).

Why? Is it a requirement to be like that to be recruited by the PTO?

or...

Is there a training program to make regular people adopt these traits after they are recruited?

No, this is not sarcasm. Sadly, these are questions that I respectfully submit to you, seeking a response, Mr. Secretary, in view of the fearless, rampant way people brake the law and undermine the USPTO's constitutional purpose.

This is unacceptable. Simply unacceptable.

I once again clearly submit that this letter is a **complaint** letter, seeking **accountability** for the actions complained about. I fully understand patentability issues and the fact that they are appealable matters. I am not seeking that 'something be done for me' as suggested by Mr. Groody

in one of his letters. It is I who is doing the patent system a service by taking all this time to bring all these unacceptable irregularities to your attention. Please, do something about it.

Respectfully submitted,



Luis J. Rodriguez

cc: Mr. John Doll, Acting Commissioner for Patents
Express Mail # EQ 012510261 US (Certified)

cc: Mr. James Fleming, Chief Administrative Judge
Express Mail # EQ 012510275 US (Certified)

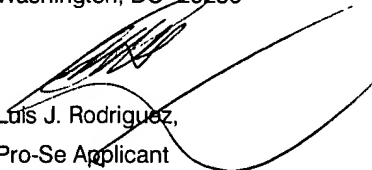
Enclosures *(in inverse chronological order):*

1. Reply to Paper 46. Request for Rehearing (April 08, 2005)
2. Request for Rehearing (February 05, 2005)
3. Supplemental Appeal Brief (July 28, 2004)
4. Letter to James Groody (June 19, 2004)
5. Letter to James Groody (June 03, 2004)
6. Reply Brief (September 08, 2003)
7. Appeal Brief
8. Response to Paper # 33 (July 05, 2003)
9. Request for Rectification of Paper #29 May 25, 2003
10. Summary of Interview (By Applicant) (November 22, 2002)

CERTIFICATE OF MAILING:

Date of Mailing: June 22, 2005

I hereby certify that this correspondence, including its attachments is being deposited with the United States Postal Service "EXPRESS MAIL TO ADDRESSEE" service # EQ-012504734-US (Also certified) under 37 CFR 1.10 on the date indicated above, and is addressed to Mr. Carlos Gutierrez, Secretary of Commerce, 1401 Constitution Ave., Washington, DC 20230



Luis J. Rodriguez,
Pro-Se Applicant



In The United States Patent And Trademark Office

Appl. Number: 09/978,215
Appl. Filed: 10/15/01
Applicant: Luis J. Rodriguez
Title: Self Sealing Letter Sheets (*Formerly "Self Sealing Forms"*)
Examiner / GAU: Stephen P. Garbe / 3727

APPEAL BRIEF

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In accordance with notice of Appeal filed January 09, 2003, applicant respectfully submits the present Appeal Brief:

(1) **Real party in interest**

The real party in interest is the Applicant listed above.

(2) **Related appeals and interferences**

None

(3) **Status of claims**

Claims 01-70 have been rejected.

Claims 01-44 have been canceled.

Claims 45-70 are pending.

Claims 45-59 and 61-70 are appealed

(4) **Status of Amendments**

- Advisory Action of 10/25/02 denied entry of Amendment C.
- Advisory Action of 10/25/02 further denied entry of Amendment C for purposes of appeal.
- A petition to the Commissioner, to enter Amendment C was filed on January 09, 2003.
- A response to the Petition to the Commissioner is pending.
- Portions of Amendment C served as a demonstration exhibit during interview of October 29, 2002, and are therefore entered in the record. These portions are: page 39, and the discussion of rejection of claims 68-70 on last two paragraphs of page 36, and paragraphs 1-5 of page 37. See Summary of Interview by applicant, page 3, sections 4) and 5).

(5) **Summary of the invention**

The invention is a self sealing letter sheet made of a blank of a sheet material. A typical embodiment of the invention resembles a conventional letter sheet, —just like the 8½" x 11" sheets in a ream purchased at Staples™ or any stationery store— folded so it has at least one rectangular body —the letter sheet itself— and at least one marginal flap. The self sealing letter sheet further has:

- at least one area having a layer of a fastener substance (e.g. pressure sensitive adhesive, a.k.a. PSA),
- at least one area having a layer of a fastener inhibitor substance (e.g. Silicone),

-at least one blank area (free of any substance).

In the pre-use condition the at least one flap is in contact with the body, yet it is prevented from permanently fastening to it.

This pre-use condition of the invention is what defines the claimed product, and what is relevant to this appeal, as all the appealed claims relate to product or article claims (as opposed to method claims)

In any event, the subsequent use of the invention requires a pre-determined folding pattern of the body, so it can be placed in contact to the at least one flap, so the at least one area having a layer of a fastener substance avoids the one layer of a fastener inhibitor substance, and faces the at least one blank area free of any substance, whereby the letter sheet or form is self sealed. Again, these steps relate to the use of the product, as opposed to the claimed product itself. See Exhibit A (Model of Invention)

(6) **Issues**

1. The invention has been alternatively described and claimed as: a) a self sealing form, b) a self contained form and c) a self sealing letter sheet.

As indicated on (5) above, the claimed self sealing letter sheet or self sealing form is a letter sheet that upon actions taken by the user (steps of use) can seal and contain itself without the participation of an envelope.

As such, the notion proposed by the Office, that an already constructed envelope, constitutes prior art to the present invention is simply incorrect, inappropriate and unfair.

Accordingly, citing Schieman's or Wilbur's envelopes as prior art to the present invention is incorrect, inappropriate and unfair.

- 2.** The claimed invention is made of a blank of a sheet material —e.g. paper—, which is folded to provide at least one mono-sectional body and at least one mono sectional flap, and the sheet material carries at least one layer of a fastener substance and at least one layer of a fastener inhibitor substance.

The at least one body is mono-sectional, because in its pre-use condition, (i.e. the claimed structure) is never folded so as to provide different panels or sections.

The at least one flap is mono-sectional because in its pre-use condition, (i.e. the claimed structure) is never folded so as to provide different panels or sections.

- 3.** In this application, the meaning of the term ‘Pressure Sensitive Adhesive’, is the meaning established in the industry, i.e.:

An adhesive that is activated upon contact and slight pressure and which can be of two different kinds:

a) a low tack repositionable adhesive, like the adhesive in Post It™ products, which has been identified in the specification with the reference numeral 204 and/or

b) a permanent adhesive which for that reason needs to be protected by a release coating, prior to its use, and which has been identified with the reference numeral 202 in the specification.

An adhesive inhibitor normally refers to a release coating, and is identified with the reference numeral 206 in this application.

Accordingly, the only purpose of using an adhesive inhibitor (release coating) is to prevent the untimely and or accidental fastening of pressure sensitive

permanent adhesive coatings (202) to other surfaces.

Therefore, the use of an adhesive inhibitor (release coating) is only necessary when a pressure sensitive adhesive is used. It would be absurd, for instance to use a release coating in conjunction with a dry adhesive that is activated by its moistening. Such adhesive does not require any inhibition.

For that reason, a pressure sensitive adhesive of the permanent type (202) is used to seal (close) an item, as opposed to construct a container which will remain unsealed for an indefinite period of time.

The pressure in articles using pressure sensitive adhesive is manually exerted, hence this system is not used when sealing massive quantities of articles.

4. An envelope is a pre-assembled container.

As such, an envelope requires at least one (normally two) coatings of glue to fasten together its different walls so as to produce the container section.

The glue used to fasten the walls of a pre-assembled envelope is NOT a pressure sensitive adhesive (PSA), because it is of necessity an instantly activated glue. (e.g. heat activated glue), and there is therefore no need to protect this glue with a release substance.

The self sealing letter sheet of the present invention does not require this type of glue. It only requires one type of adhesive to seal the form, i.e. "Pressure sensitive adhesive, aka PSA, because the self sealing letter sheet of the present invention is not a pre-assembled container.

5. An applicant can act as his own lexicographer, and the meanings of the terms used in the specification are to be ascertained from the specification itself.

«Office personnel must rely on the applicant's disclosure to properly determine the meaning of terms used in the claims. *Markman v. Westview Instruments*, 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir.) (In banc), aff'd, **U.S.*, 116 S. Ct. 1384 (1996)»**

Also see MPEP 2106: ... «"Disclosure may be express, implicit or inherent. Thus, at the outset, Office personnel must attempt to correlate claimed means to elements set forth in the written description. The written description includes the specification and the drawings.»

In academic terms, and especially in the context of this application's specification, an envelope by itself is not a piece of correspondence, as claimed by the Office (See page 16 of Amendment A, 5th and 6th paragraph) because it carries no message, which is the defining aspect of the term correspondence.

And even if by any semantic flexibility, an envelope is considered a piece of correspondence, it is then a piece of correspondence that is not analogous to a Self Sealing Letter Sheet, for that same reason (the fact that no private message is carried)

This is a very important issue, because the only justification provided by the Office for citing envelopes is the notion that an envelope is 'a piece of correspondence' (See Amendment A, page 16, para. 5 and 6; and Amendment B, page 24, para. 5 and 6), while the fact remains that even if an envelope is considered 'a piece of correspondence', —which is not— it has a completely different structural configuration than the present invention.

- 6.** None of the appealed claims recite any panels, and in any event there is no parity or equivalence between the panels of a pre-assembled envelope, of the alleged prior art, which constitutes a structural defining element of an envelope before its use, and the panels resulting from folding the Self Sealing Letter sheet of the present invention by the user, which do not provide any

structural definition to the product before its use.

Score or folding lines are an optional and dispensable element of the invention, and their absence further defines the absence of panels in a body before its use. See specification, page 12, last sentence of fourth paragraph, See claims 1-22.

7. All the appealed claims are product or article claims, as such, and as established by the Office itself, use steps have no structural impact on them. Thus, it is improper to invoke these use steps for 102 or 103 rejections. See Amendment A, page 31, 3rd through last paragraph, and page 32, para. 1 through 3.
8. A notable obstruction in the prosecution of this case has been the erroneous interpretation of certain terms, which is in fundamental conflict with the meaning in the specification, and which has unduly served as basis for some rejections. These terms include:

Form/Self Sealing Form: In the context of this application, and fully supported by the specification, drawings, arguments, and all attachments, a form is a letter sheet. Hence, a self sealing form is a self sealing letter sheet. (**Not** an envelope as alleged by the Office)

See Exhibit A (model of Invention); see abstract, first sentence, **In the specification**, see: page 1, 2nd paragraph, See Figs. 7A-7B, 8, 9A-9B, 10A-10B, 12A-12B, 13, 14A, 15A-15B, 17A, 18, 19A, 20A-, 21, 22A, 23A, 24A, 25A-25B, and their respective descriptive text, which show and discuss the invention before its use, i.e. the claimed product or article, which for that reason excludes steps of use. See page 4 (Summary of Invention) first paragraph.

See ATTACHMENTS 11A, 11B, 12, 13, 14A and 14B. See Attachment 4.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please refer to:

- Attachments 15, 16, 18, 19 and 30.
- Page 25 of Amendment C.

Envelope: In the context of this application, and fully supported by the specification, drawings, arguments, and all attachments, an envelope is an already built and assembled container when it is offered to the public. All the user has to do is to ‘stuff’ it and seal it. User does not have to assemble it.

See ATTACHMENTS 11A, 11B and 12. See also Attachment 4. See US patents 2,367,440 to Schieman and 2,384,223 to Wilbur.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please refer to:

- Affidavit 4
- Attachments 21, 22, 23, 24, 25, 26, 27, 28 and 29

Correspondence: In the context of this application, and fully supported by the specification, drawings, arguments, and attachments, “correspondence” is a message. Therefore, an envelope is not a piece of correspondence.

See Amendment A, page 16, last para., Pages 17-18 and page 19, except

last paragraph. See page 20, last para. And page 21, para. 1-4. See Affidavit 3.

Body: In the context of this application, and fully supported by the specification, drawings, arguments, attachments, amendments and affidavits, the body of the self sealing letter sheet is the one-ply, unfolded **letter sheet itself, excluding the flap(s).** Just like the ***“body” of a vehicle is not analogous to the body of a letter sheet, the “body” of a container is not analogous to the body of a letter sheet.***

See Exhibit A, See page 39 of Amendment C, which was entered on the record after presented as a demonstration exhibit during interview of October 29, 2002.

Panels: In the context of this application, and fully supported by the specification, drawings, arguments and attachments, the panels of the body of a letter sheet IF and WHEN they exist DURING THE PRE-USE phase—as the result of the production of a score line—are merely side by side sections, and are never in a facing condition and much less glued together to conform a container. ***Just like the ‘panels’ of a roof are not analogous to the ‘panels’ of a letter sheet, the ‘panels’ of a container are not analogous to the panels of a letter sheet.*** See MPEP 2111.01.

See Exhibit A.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please refer to:

- Amendment C, pages 68-71 and page 72, para. 1 and 2.

(7) **Grouping of Claims**

	GROUPED CLAIMS	GROUND OF REJECTION	LOCATION IN SEPT. 11/02 O.A.
i)	45-49	35 U.S.C. 112. first paragraph for alleged lack of disclosure of a 'mono-sectional' body	Page 2, Section 4. Page 3, Section 5.
ii)	49	35 U.S.C. 112. first paragraph because 'mono-sectional' is allegedly new matter	Page 3, Section 5, second sentence.
iii)	68-70	35 U.S.C. 112. first paragraph for alleged lack of disclosure of a letter sheet having a repositionable adhesive, and a dry adhesive	Page 3, Section 7
iv)	45-49	35 U.S.C. 112. second paragraph for alleged inaccuracy and indefiniteness for using the term 'manufactured'	Page 4, Section 9 Page 4, Section 10
v)	50-53	35 U.S.C. 112. second paragraph for alleged indefiniteness, because allegedly, the letter sheet is not manufactured by placing a flap in contact with the body.	Page 4, Section 11 Page 4, Section 12
vi)	45-47, 62-64 and 66	35 U.S.C. 102(b) as allegedly anticipated by Schieman	Page 5, Section 15
vii)	45-47, 49-51, 53-55, 57, 58, 62-64, 66 and 67	35 U.S.C. 103(a) as allegedly unpatentable over Johnson in view of Wilbur or Schieman	Pages 5/6, Section 17
viii)	48, 52, 56, and 65	35 U.S.C. 103(a) as allegedly unpatentable over Johnson in view of Wilbur or Schieman and Stenner	Page 6, Section 18
ix)	59 and 61	35 U.S.C. 103(a) as allegedly unpatentable over Johnson in view of Wilbur or Schieman	Pages 6/7, Section 19

(8) Argument

Rejections under 35 USC 112, first paragraph

i) Rejection of claim 45 and its dependent claims 46-49

(See O.A. Of Sept. 11/02, page 2, section #4)

Office rejected claim 45 and all its dependent claims under 112, first paragraph as containing subject matter which was not described in the specification to convey the claimed invention to one skilled in the art, alleging that:

«there is no original disclosure of a "mono-sectional body", and that "all of the disclosed envelope* bodies have more than one section.»

This rejection is erroneous, as claim 45 and its dependent claims 46-49 fully comply with 35 USC 112.

See claims 1-22, which do not recite any 'sections' to the body.

Further, see Page 12, 4th para., last sentence of original specification, which clearly states:

“Score or folding lines may also be substituted by printed guides or may simply be omitted” (Emphasis added here)

It is a simple matter of logic that if there are no score lines or otherwise separating lines, and if the body is unfolded —**as it always is**— in the pre-use condition, the body is mono-sectional.

(* **CORRECTION NOTE:** The disclosed and the claimed invention is a 'self sealing form' or a 'self sealing letter sheet', **NOT** an envelope as characterized by the Office Action in this rejection)

Office Additionally alleges (See last 4 lines of page 2) that:

«“each envelope** in the original disclosure has only one "body"»

This assertion is erroneous, as claim 45 and its dependent claims 46-49 fully comply with 35 USC 112, first paragraph.

Refer to 13th embodiment (Figs. 24A-24N), which is defined as a “two-way self sealing mailer” and which has a first mailer (first body) 238 and a second mailer (second body) 244. Also, refer to 14th embodiment (Figs 25A- 250), which is also a “two way self sealing mailer” and which has a message panel (message body) 264, reply mailer 244 (reply body) and addressing panel 266 (addressing body)

Furthermore, see claims 4 and 20. See MPEP 2163, para. 1. See MPEP 2163.06.

(* CORRECTION NOTE: The disclosed and the claimed invention is a ‘self sealing form’ or a ‘self sealing letter sheet’, NOT an envelope as characterized by the Office Action in this rejection)

ii) Additional rejection of claim 49

(See O.A. Of Sept. 11/02, page 3, section #5)

Office further rejected claim 49 under 35 USC 112, first paragraph as containing subject matter which was not described in the specification to convey the claimed invention to one skilled in the art, alleging that the phrase "at least one mono-sectional" flap is new matter.

This rejection is erroneous, as claim 49 fully complies with 35 USC 112, first paragraph.

See Fig. 24A (13th embodiment). The second mailer (second body) 244 has at least one mono-sectional flap (flaps 246, 248, and 250). None of these flaps is divided. So they have only one section, and that is the defining

characteristic of the term "mono-sectional". Also, see Fig. 25A of 14th embodiment. The reply mailer 244 (reply body) has at least one mono-sectional flap (flaps 246 and 248) .

See claims 1-22, which do not recite any sections to the flaps. See MPEP 2163.06.

iii) **Rejection of claims 68-20**

(See O.A. Of Sept. 11/02, page 3, section #7)

Office rejected claims 68-70 under 112, first paragraph as containing subject matter which was not described in the specification to convey the claimed invention to one skilled in the art, alleging that "there is no original disclosure of a letter sheet having one layer of repositionable adhesive"

This rejection is erroneous, as claims 68-70 fully comply with 35 USC 112, first paragraph.

Refer to Summary of Interview submitted by applicant on November 22, 2002. See page 3, section 5).

Refer to 8th paragraph of page 13, which specifically discloses:

"Another alternate three panel self contained form (not shown) of this 1st embodiment is obtained by omitting the adhesive inhibitor 206 and using a dry adhesive substance as the adhesive layers 202, that is activated by its moistening. **For the temporary connection of the flaps to the body, a low tack adhesive 204 is used, interacting with a facing space that has no layer of any substance.**"

Similar disclosures appear on page 14, 10th para.; page 215, 8th para.; page 16, last para. continued on page 17; page 17, last para. continued on page 18; page 18, 8th para.; page 19, 3rd para., page 19, 9th para.

Also, refer to FIG. 1; FIGS. 5A and 5B; and FIGS. 6A and 6B, and their respective text on the specification. See also Page 10, 1st and 2nd paragraphs.

Also, refer to page 5, last paragraph.

All these entries relate to the repositionable adhesive layer (204) , and teach how to utilize it, as it is recited by claims 68-70.

Rejections under 35 USC 112, second paragraph

iv) Rejection of claim 45 and its dependent claims 46-49

(See O.A. Of Sept. 11/02, page 4, sections #9 and 10)

Office rejected claim 45 under 112, 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention, alleging that:

«the limitations preceding the phrase "whereby said self sealing letter is manufactured" are not manufacturing steps.»

This rejection is erroneous as claim 45 and all its dependent claims fully comply with 35 USC 112, 2nd paragraph.

All the limitations preceding such phrase are the conditions and requirements for the form to be produced, and then made available to the public for its use. The verb (to) manufacture is a synonymous of the verb (to) produce.

Also, see MPEP 2173.05(p)

...A claim to a device, apparatus, manufacture or composition of matter may contain a reference to the process in which it is intended to be used without being objectionable under 35 U.S.C. 112, second paragraph, so long as it is clear that the claim is directed to the product and not the process...

v) Rejection of claim 50 and its dependent claims 51-53

(See O.A. Of Sept. 11/02, page 4, section #11 and 12)

Office rejected claim 50 and its dependent claims 51-53 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention, alleging that:

«the letter sheet is not manufactured by placing a flap in contact with a body»

Just like a "letter sheet" is simply produced by cutting a blank of paper (or similar material) to the desired size, and offered for sale to the public, a "Self Sealing Letter Sheet" is a "letter sheet" further having (at least) one flap, (at least) one release layer and (at least) one adhesive layer, to enable the "self sealing" properties.

Thus, yes, the letter sheet is precisely produced by placing the flap in contact with the body, so the at least one adhesive layer is protected and the letter sheet is ready to be used.

Please, see model (EXHIBIT A), submitted on October 17, 2002 under 37 CFR 1.91 (a) (3)

Also, see Summary of Interview of October 29, 2002 submitted by applicant on November 22, 2002 (see page 3, section 4) of Summary of Interview)

And, also see page 39 of Amendment C, which was used as a demonstration exhibit during that interview, and is therefore on the record now.

See MPEP 2164.01

Rejections under 35 USC 102(b), second paragraph**vi) Rejection of claims 45-47, 62-64 and 66**

(See O.A. Of Sept. 11/02, page 5, section #15)

Office rejected claims 45-47, 62-64, and 66 under 102(b) as being anticipated

by Schieman

Claims 45-47 claim a self sealing letter sheet. See (6) Summary of Invention above.

Claims 62-64 and 66 claim a self sealing form. See (6) Summary of Invention above.

For all the reasons on record, starting with the fact that Schieman is a structurally (and functionally) different product, it is inconceivable that an envelope (a pre-assembled, glued together container) could anticipate a self sealing letter sheet or a self sealing form.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please, refer to:

- Attachments 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.
- page 41 of Amendment C.
- Models of references, submitted as EXHIBITS B, C, D and E, under 37 CFR 1.91(a)(1)
- Affidavit 4.

Likewise, a petition to enter Substitute specification which was denied entry by Advisory Action of 10/25/02 was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please, refer to:

- Page 15 of substitute specification, last paragraph, page 16 of substitute specification, paragraphs 1 and 2.

Schieman's "body" is a container, having two facing panels, and one of the two facing panels is made of three overlapping sections secured together by the use of two layers of a heat activated adhesive. Further, Schieman requires that in the pre-use condition, the two flaps are in contact to one another, while this invention requires that the flap is in contact and temporarily fastened to the body, which is a one single ply of a sheet material, and which therefore has no container portion.

Also, refer to Model (Exhibit A) submitted under 37 CFR 1.91 (a)(3), on October 17, 2002. See ATTACHMENTS 4, 11A, 11B, 12, 13, 14A and 14B.

See Amendment A, page 19, last para., page 20 except last para. See page 20 last paragraph and page 21, para. 1-4, which discusses evidence that the PTO had already recognized that there is no parity or analogy between an envelope and a Self Sealing Form or Self Sealing Letter Sheet, during the examination of earlier application # 09/032,853, as out of the eight references cited, none is a pre-assembled envelope. See Attachment 2.

Office further states that Schieman discloses a mono-sectional body. This is an incorrect statement.

The body of Schieman is 'tetra-sectional', as it has four (4) sections, namely: a first wall made of one section, and a second wall made of three overlapping sections. Schieman's body further requires two layers of non-pressure sensitive adhesive (heat activated), to fasten together the three sections of the second wall, to define the body, i.e. a pre-assembled container. Schieman's body is therefore, anything but 'mono-sectional'

See MPEP 2131: "To anticipate a claim, the reference must teach every element of the claim"

See **ATTACHMENTS 11A, 11B and 12. See Exhibit A.** See Amendment A,

page 29, last 3 paragraphs, page 30, para. 1-5.

Furthermore, and now referring to Schieman's flaps, they have no equivalence with the present invention's flaps, regardless of the semantic interpretation chosen, because:

In the present invention each and every flap is always connected to the body, is never divided in sections, and it is never required to interact with another flap, in clear distinction with Schieman's two embodiments:

a) In Figure 1, (first Embodiment) Schieman shows a bi-sectional flap, where both sections must interact mutually in a pre-use condition; or if each section is interpreted as an individual flap, then the flap with the adhesive strip 3 is connected to the flap having the repellent zone, and must interact with it.

Neither of these two interpretations is ever embodied by the present invention, and even less recited by claims 45-47, 62-64, or 66.

b) In Figures 5, 6 and 7 (second embodiment) Schieman shows an individual flap having an adhesive strip 3 and a flap having a repellent zone 6, which must interact together during the pre-use stage.

This situation is never embodied by the present invention, and even less recited by claims 45-47, 62-64, or 66.

Claim 45 and hence, its dependent claims (see clause d) specifically require that to produce the self sealing letter sheet, the (at least) one, two, three or 'N' flaps be in contact with the body. i.e. **each flap** needs to be in contact with the body, and remain in a temporarily fastened condition until sealing is desired, which constitutes a fundamental distinction over the cited reference, even if it was a valid reference, which is not.

Claim 62 and hence, its dependent claims (see clause b) specifically require

that the at least one flap overlaps the body, i.e. **each flap** needs to be in contact with the body, and remain in a temporarily fastened condition until sealing is desired, which constitutes a fundamental distinction over the cited reference, even if it was a valid reference, which is not.

See MPEP 2131: “To anticipate a claim, the reference must teach every element of the claim”

And sealing is a function of use, which therefore is not relevant to the structural recitation of the claim, as pointed out by the Office on page 10 of action dated June 20/02. But in any event, sealing is achieved by folding the body, and placing it into contact with the flap, while avoiding the release layer.

Whereas

Depending on the embodiment and the semantic interpretation chosen, Schieman requires that both sections of the flap—or both flaps—be in contact with one another, prior to sealing the envelope. And in any event, sealing the envelope, which is not a structural element, but rather a step of use, does NOT require folding the body of the envelope.

Furthermore, Office Action of September 11, 2002 (page 5, last three lines of section 15) states that “all of the claimed function can be performed with Schieman’s structure”.

This contention is:

a) moot, because claims 45-47, 62-64 and 66 are product claims, claiming the structure, and not the function,

and if hypothetically considered to be pertinent, this contention is:

b) incorrect, because the claimed invention, is as structurally different from Schieman’s disclosure as a letter size piece of paper is from an assembled #10

(or any size) envelope.

Office Action incorrectly states that the term “Letter Sheet” does not define over Schieman. Again, the term “Letter Sheet” is as defining over Schieman’s, as the term “Letter Sheet” is defining over any envelope. In structural terms, they are simply two completely different types of products.

See MPEP 2111.02:

“Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation. See, e.g., Corning Glass Works v. Sumitomo Elec. U.S.A., Inc., 868 F.2d 1251, 1257, 9 USPQ2d 1962, 1966 (Fed. Cir. 1989) (The determination of whether preamble recitations are structural limitations can be resolved only on review of the entirety of the application “to gain an understanding of what the inventors actually invented and intended to encompass by the claim.”

See MPEP 2131:

“To anticipate a claim, the reference must teach every element of the claim”

And looking at it from another angle:

Even if hypothetically speaking, and by virtue of some imaginary nomenclature stretching, the self sealing form of the present invention is called an “envelope”, it is completely different to “Schieman’s” or anybody’s envelope, as it would be an **unassembled** envelope (**Which is in itself a contradiction, as what constitutes and defines an envelope is its assembly as such**) that would have to be assembled by the user. And it has been established that use steps do not provide limitations in an article claim. Further, the construction is completely different, and furthermore, no **heat activated glue** is involved in the process of producing the forms, as no walls, panels or any elements are pre-adhered in a permanent, sealing manner.

Rejections under 35 USC 103(a)

vii) Rejection of claims 45-47, 49-51, 53-55, 57, 58, 62-64, 66 and 67

(See O.A. Of Sept. 11/02, pages 5/6, section #17)

Office rejected claims 45-47, 49-51, 53-55, 57, 58, 62-64, 66 and 67 under 103(a) as unpatentable over Johnson, in view of Wilbur or Schieman.

This rejection is erroneous because two of the references are not valid, and hence can not be a part of a 103(a) rejection, and further:

For all the reasons on record, starting with the fact that Schieman and Wilbur are structurally (and functionally) different products with respect to this invention, it is inconceivable that an envelope (a container) would be combined with a 'Reply Letter Sheet', because they simply belong to two different species.

The only outcome of such combination, if a useful product is obtained, would be of necessity a new species. And if that in fact occurs, such combination is by its own nature and by statute novel and patentable. See attachments 4, 11A, 11B, 12, 13, 14A, and 14B. See Exhibit A. See Amendment A, page 29, last 3 paragraphs, page 30, para. 1-5.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please refer to:

- Exhibits B, C, D and E.
- Attachments 15, 16, 21, 22, 23, 24, 25, 26, 27 and 28.
- Affidavit 4
- Pages 41, 44, 47 and 50 of Amendment C.

Schieman's "body" is a container, having two facing panels, and one of the two facing panels is made of three overlapping sections secured together by the use of two layers of a heat activated adhesive. Further, Schieman requires that in the pre-use condition, the two flaps are in contact to one another, while this invention requires that the flap is in contact and temporarily fastened to the body, which is a one single ply of a sheet material, and which therefore has no container portion. Wilbur's first embodiment is a replica of Schieman's second envelope embodiment. There is simply no motivation to combine an envelope (Wilbur or Schieman) with a Reply Letter Sheet (Johnson).

And Wilbur's second embodiment is even much more different than the present invention, as it further requires an additional layer of release on the outer side of the tab 20, and a layer of adhesive on upper flap 16, which is to interact with the other layer of adhesive 30.

Thus, these differences also disqualify Wilbur as a valid reference.

And since they both belong to another species, there is no reason whatsoever to combine them with Johnson.

And, Johnson's disclosure itself teaches away from such combination.

Johnson states on 3rd paragraph of col. 1: "The primary object of this invention is to provide a reply letter of simplified construction, as compared to that of my pending application, while retaining the advantages accruing from a tear string arrangement operable by the original recipient and by the return addressee."

And such tear strings 15 and 17 are to be mounted by glue, or other adhesive means to the material of the sheet letter. (See Johnson's col. 2, lines 61-65)

For obvious practical reasons, the system of the present invention, requires that the release layer is applied first, then the pressure sensitive adhesive. (If

the adhesive —Pressure Sensitive Adhesive— is applied first, the coating of release will be prevented, as the exposed **and active** adhesive will adhere to rollers and/or other parts of the equipment used, and the adhesive will be ruined or at least contaminated.

To commercially produce the letter sheets, the incorporation of Johnson's intrinsic tear string poses a serious problem, because if the strings are applied before the pressure sensitive adhesive, they will disturb the coating of the latter. If the pressure sensitive is applied first, and before their folding, the pressure sensitive will be exposed, and therefore will obstruct the mounting of the strings. If the flaps are folded, then the mounting of the strings would have to be performed manually, dramatically increasing production costs, and rendering the project impractical.

Since the adhesive necessary to mount the strings is of the same kind of the dry adhesive necessary to seal the letter, a system whereby both, the coating of the sealing adhesive and the mounting of the strings can be sequentially achieved, should be implemented to maximize efficiency and reduce costs. This clearly teaches away from using a pressure sensitive adhesive, anywhere in the piece.

Furthermore, as a key feature of the present invention is to be suitable for laser printers and other friction and heat generating machines (see specification, page 4, first two lines), the incorporation of interactive release and pressure sensitive adhesive is not compatible with Johnson's invention, because the tear string will be exposed at all times, and worse yet, the mounting adhesive of the tear string will also be exposed and hence activated by the heat, or at least disturbed and/or be disturbed by the rollers or parts of the machine, which will inevitably jam the piece inside the printer or machine. Johnson teaches away from using pressure sensitive adhesive. Without Pressure Sensitive adhesive there's no need to use a release layer. Accordingly, there is

no motivation to the suggested combination, and as established before, there's no reasonable expectation of success to produce such combination, and even less expectation of success for its use. Please, see MPEP 2143.

Also, see **Affidavit 1, section II**; which demonstrates a 'long felt need in the art', and 'failure of others' by way of showing references structurally closer to this invention than those cited by the Office, which disprove any instance of 'obviousness' See **MPEP 716.02** . See also ATTACHMENT 9 submitted with Amendment A. See Amendment A, page 29, last 3 paragraphs, page 30, para. 1-5.

Now referring to Sept. 11/ 02 Office Action's assertion starting on page 6, 2nd line, as follows: "...flaps 8, 8, and 9 which contain adhesive and folded onto panel 4, but not sealed thereto. It would have been obvious to provide panel 4 of Johnson with adhesive inhibitor adjacent to flaps 8, 8, and 9 as taught by either Wilbur at 24 or Schieman at 4, because the inhibitor would have prevented unintentional sealing of flaps 8, 8 and 9 to the form..."

That would simply be a waste of the adhesive inhibitor. As stated on the first sentence of the very quote above "...flaps 8, 8, and 9 which contain adhesive and folded onto panel 4, but not sealed thereto. " So there is no need whatsoever to use an adhesive inhibitor to interact with a layer of dry adhesive, as the adhesive is not active, i.e., does not need any inhibition. In any event, for all the reasons presented, these claims depend on allowable claims, and since they offer yet more limitations, they are a fortiori patentable.

CORRECTION NOTE: As for the comment regarding claim 47, which as a dependent claim receives all the limitations of independent claim 45, and is therefore patentable, applicant offers correction to the allusion that pressure sensitive is "old and well known for use with envelope flaps", because the present invention is not an envelope.

viii) Rejection of Claims 48, 52, 56, and 65

(See O.A. Of Sept. 11/02, page 6, section #18)

Office rejected claims 48, 52, 56, 60 and 65 under 103(a) as unpatentable over Johnson, in view of Wilbur or Schieman, and further in view of Stenner.

This rejection is erroneous, because three of the references are not valid, and hence they can not be a part of a 103 rejection, and further:

For all the reasons on the record, starting with the fact that Schieman and Wilbur are structurally (and functionally) different products with respect to this invention,

And Stenner is a multiple envelope with enclosures, which disqualifies it as a reference against a self sealing letter sheet.

Thus, it is inconceivable that an envelope, and a reply sheet be combined with a piece of 'direct mail' with plurality of envelopes and enclosures because they all relate to different species.

The only outcome of such combination, if it results in a useful product, would be of necessity a new species. And if that in fact occurs, such combination is by its own nature and by statute novel and patentable.

Schieman's "body" is a container, having two facing panels, and one of the two facing panels is made of three overlapping sections secured together by the use of two layers of a heat activated adhesive. Further, Schieman requires that in the pre-use condition, the two flaps are in contact to one another, while this invention requires that the flap is in contact and temporarily fastened to the body, which is a one single ply of a sheet material, and which therefore has no container portion. See ATTACHMENTS 4, 11A, 11B, 12, 13, 14A and 14B. See Exhibit A. See Amendment A, page 29, last 3 paragraphs, page 30, para. 1-5.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please refer to:

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- Attachments 15, 16, 21, 22, 23, 24, 25, 26, 27 and 28.
- Affidavit 4
- Pages 41, 44, 47 and 50 of Amendment C.

Wilbur's' first embodiment is identical to Schieman's second embodiment, and hence is also invalid. Wilbur's second embodiment has even more differentiating features, as it requires a layer of release on the outer side of the smaller (bottom) flap, and a layer of adhesive on the inner side of the (larger) top flap.

Since Johnson is a product different than Schieman or Wilbur, there could not be a reason or motivation to combine them, and even if they could hypothetically be combined, Johnson's tear string makes undesirable such combination, as coating of the pressure sensitive adhesive would be obstructed by the tear string if applied first, and vice versa. Also, the permanently exposed adhesive of the tear string will prevent the feeding of the form trough heat and friction generating printers and machines, which is an important aspect of the present invention (see page 4 of specification, first two lines). Therefore, there is no motivation to combine Johnson with Wilbur or Schieman, if such combination was hypothetically possible, and there is not reasonable expectation of success in producing such device in a cost effective way, and even less expectation of success to use it with friction or heat generating printers.

Thus, rejection of claims 48, 52, 56, 60 and 65 further combining such invalid combination with Stenner can only result in another invalid rejection.

Claims 48, 52, 56, 60 and 65, relate to a series of detachable letter sheets. A letter sheet is produced, and then offered to the public having its **body** in an **unfolded** condition. The only 'folding' of the **letter sheet** relates to having the flap(s) bent towards the body. The purpose of doing this is to a) protect the adhesive on the flap by contact with the release on the body and b) keeping flap and body removably fastened to one another so the letter sheet is in a flatter, steadier condition for handling, packaging, displaying, and very importantly: printing.

But continuous-detachable self sealing letter sheets per se are **not** a finished mailing piece. The letter sheet is manufactured according to description of FIGS. 15A-15B; 16; 18; 20A-20E and 21 and their corresponding text on the specification, and it is offered to the user in that condition. Then, the user must print or write the information, and then detach, fold and seal the piece, to produce the finished mailing item.

For this reason, the interaction of the pressure sensitive adhesive and the release is convenient and advantageous to the user. Because s/he will be able to seal the letter sheet without having to use an envelope, a staple, a piece of tape or any other foreign element.

But Stenner discloses "direct mail articles and commercial methods for preparing large numbers of such articles, each of which comprises a plurality of envelopes containing one or more enclosures" (col.1, 2nd para.)

This is very eloquent about the structural distinction of the reference with respect to this invention, and the lack of purpose to incorporate release and pressure sensitive adhesive into Stenner.

First, this establishes a categoric difference with respect to this invention in

that each of Stenner's article comprises a plurality of envelopes, which further contain one or more enclosures, while each detachable article of the claims in question is one single detachable letter sheet, all the letter sheets are identical, and no enclosures are recited. No enclosures are even possible as the letter sheet does not have any container in the pre-use condition.

And the fact that the purpose of Stenner is to prepare extremely large numbers of such articles, (see col. 2, line 51 on) coupled with the fact that the sealing of envelopes 13 occurs sequentially and intantly, indicates that there is no purpose or need to have release layers. There is no "temporary sealing" phase necessary in Stenner's disclosure.

And further, pressure sensitive adhesive products, by their own nature are intended to be used in small or even individual scales, as the "pressure" is manually provided by the user when sealing the pieces. See MPEP 2143.01: "The proposed modification cannot change the principle of operation of a reference"

Furthermore: If the adhesive is changed from dry adhesive to Pressure Sensitive Adhesive, the flaps must be folded against the body so their adhesive is protected by the release on the body. But given the necessarily extended (unfolded) configuration of all 'Composite sheets' or 'webs' 10 in all embodiments, this is physically **impossible** without first separating the enclosure device sheets 11 and the integral envelope sheets 13, which will instantly defeat the purpose of Stenner.

It is clear that not only this is an inadequate reference but there is not any reason or advantage in combining it with the other references, which are also inadequate references.

Also, see Affidavit 1, **section II**, which demonstrates a 'long felt need in the art', and 'failure of others' by way of showing references structurally closer to this invention than those cited by the Office, which disprove any instance of

'obviousness' See MPEP 716.02(e) . Also. see **ATTACHMENT 9**, which is a photograph and respective caption of product # 8325 by Avery Dennison ("Self Seal Mailer"), as evidence of structurally closer references that have failed to produce the results provided by the present invention.

ix) **Rejection of claims 59 and 61**

(See O.A. Of Sept. 11/02, pages 6/7 section #19)

Office rejected claims 59 and 61, as unpatentable over Johnson in view of either Wilbur or Schieman, as applied to claim 54.

This is an invalid rejection as Schieman or Wilbur are invalid references, and further because Johnson teaches away from the combination proposed by the Office, which is ultimately an invalid combination.

Thus, it is inconceivable that an envelope, and a reply letter sheet be combined, because they relate to two different species.

The only outcome of such combination, if it results in a useful product, would be of necessity a new species. And if that in fact occurs, such combination is by its own nature and by statute novel and patentable.

Schieman's "body" is a container, having two facing panels, and one of the two facing panels is made of three overlapping sections secured together by the use of two layers of a heat activated adhesive. Further, Schieman requires that in the pre-use condition, the two flaps are in contact to one another, while this invention requires that the flap is in contact and temporarily fastened to the body, which is a one single ply of a sheet material, and which therefore has no container portion. See ATTACHMENTS 4, 11A, 11B, 12, 13, 14A and 14B. See Exhibit A. See Amendment A, page 29, last 3 paragraphs, page 30, para. 1-5.

Wilbur's' first embodiment is identical to Schieman's second embodiment, and hence is also invalid. Wilbur's second embodiment has even more differentiating features, as it requires a layer of release on the outer side of the

smaller (bottom) flap, and a layer of adhesive on the inner side of the (larger) top flap, and is therefore, a fortiori, invalid.

Since Johnson is a product different than Schieman or Wilbur, there could not be a reason or motivation to combine them, and even if they could hypothetically be combined, Johnson's tear string makes undesirable such combination, as coating of the pressure sensitive adhesive would be obstructed by the tear string if applied first, and vice versa. Also, the permanently exposed adhesive of the tear string will prevent the feeding of the form trough heat and friction generating printers and machines. Therefore, there is no motivation to combine Johnson with Wilbur or Schieman, if such combination was hypothetically possible, and there is not reasonable expectation of success in producing such device in a cost effective way, and even less expectation of success to use it with friction or heat generating printers.

Also, see Affidavit 1, **section II**, which demonstrates a 'long felt need in the art', and 'failure of others' by way of showing references structurally closer to this invention than those cited by the Office, which disprove any instance of 'obviousness' See MPEP 716.02(e) . Also. see **ATTACHMENT 9**, which is a photograph and respective caption of product # 8325 by Avery Dennison ("Self Seal Mailer"), as evidence of structurally closer references that have failed to produce the results provided by the present invention.

NOTE: A petition to enter amendment C and its corresponding attachments was submitted to the Commissioner, and a response is pending. Upon its eventual entry, or at the discretion of the Board, please refer to:

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- Attachments 15, 16, 21, 22, 23, 24, 25, 26, 27 and 28.
- Affidavit 4
- Pages 41, 44, 47 and 50 of Amendment C.

(9) Appendix *(Claims being appealed)*

45) A self sealing letter sheet, so structured as to enable:

1) a private message and

2) a discretionary non-private message,

so the need for an envelope is eliminated,

said self sealing letter sheet comprising:

a) a blank of a sheet material, further comprising:

b) at least one mono-sectional flap,

c) at least one mono-sectional body,

d) at least one layer of adhesive, and at least one layer of adhesive inhibitor applied to said blank of a sheet material, in such a manner that when said at least one mono-sectional flap is in contact with said at least one mono-sectional body, said at least one layer of adhesive faces said at least one layer of adhesive inhibitor, whereby said at least one mono-sectional flap and said at least one mono-sectional body can be removably fastened to one another,

whereby said self sealing letter sheet is manufactured,

and whereby the user can input said private message and said discretionary non-private message, and subsequently fold and seal said self sealing letter sheet.

- 46)** The self sealing letter sheet of claim **45)**, wherein said body further comprises at least one score line to aid the user to fold said body.
- 47)** The self sealing letter sheet of claim **45)**, wherein said sheet material is paper, said adhesive is pressure sensitive adhesive, and said adhesive inhibitor is a release substance.
- 48)** The self sealing letter sheet of claim **45)**, wherein said self sealing letter sheet is one of a continuous assembly of detachable self sealing letter sheets.
- 49)** The self sealing letter sheet of claim **45)** wherein said self sealing letter sheet further comprises means for detachment of a section of said self sealing letter sheet, and said section further comprises:
- e)** at least one mono-sectional flap,
 - f)** at least one mono-sectional body,
 - g)** at least one layer of adhesive, and at least one layer of adhesive inhibitor applied to said section, in such a manner that when said at least one mono-sectional flap is in contact with said at least one mono-sectional body, said at least one layer of adhesive faces said at least one layer of adhesive inhibitor, whereby said at least one mono-sectional flap and said at least one mono-sectional body can be removably fastened to one another,
- whereby a detachable subordinate self sealing letter sheet is produced.

50) A self sealing letter sheet, comprising:

a) at least one flap,

b) a rectangular body,

c) at least one layer of an adhesive substance applied to said at least one flap,

d) at least one layer of an adhesive inhibitor substance applied to said rectangular body,

so when said at least one flap is placed in contact with said at least one body,

said self sealing letter sheet is manufactured.

51) The self sealing letter sheet of claim **50)**, wherein said rectangular body further comprises at least one score line to aid the user to fold said rectangular body.

52) The self sealing letter sheet of claim **50)**, wherein said self sealing letter sheet is one of a continuous assembly of detachable self sealing letter sheets.

53) The self sealing letter sheet of claim **50)** wherein said self sealing letter sheet further comprises means for detachment of a section of said rectangular body, and said section further comprises:

e) at least one flap,

f) a rectangular subordinate body,

g) at least one layer of an adhesive substance applied to said at least one flap,

h) at least one layer of an adhesive inhibitor substance applied to said rectangular subordinate body,

so when said at least one flap is placed in contact with said rectangular subordinate body,

a detachable subordinate self sealing letter sheet is produced.

54) A self sealing letter sheet, folded so it comprises:

1) a first ply and

2) a second ply,

wherein said first ply is a body,

and said second ply is at least one flap, overlapping said first ply,

further comprising:

a) at least one layer of adhesive on said second ply, and

b) at least one layer of adhesive inhibitor on said first ply,

arranged so when said at least one layer of adhesive faces said at least one layer of adhesive inhibitor, said second ply is temporarily fastened to said first ply, whereby said self sealing letter sheet is produced.

55) The self sealing letter sheet of claim **54)**, wherein said body further comprises at least one score line to aid the user to fold said body.

56) The self sealing letter sheet of claim **54)**, wherein said self sealing letter sheet is one of a continuous assembly of detachable self sealing letter sheets.

57) The self sealing letter sheet of claim **54)**, wherein said self sealing letter sheet further comprises means for detachment of a section of said self sealing letter sheet, and said section is folded so it further comprises:

1a) a first ply and

2a) a second ply,

wherein said first ply is a body,

and said second ply is at least one flap, overlapping said first ply,

further comprising:

c) at least one layer of adhesive on said second ply,

d) and at least one layer of adhesive inhibitor on said first ply,

arranged so when said at least one layer of adhesive on said second ply faces said at least one layer of adhesive inhibitor on said first ply; said second ply is temporarily fastened to said first ply, whereby a detachable subordinate self sealing letter sheet is produced.

58) The self sealing letter sheet of claim **57)**, wherein said body further comprises at least one score line to aid the user to fold said body.

59) The self sealing letter sheet of claim **54)**, wherein said self sealing letter sheet further comprises a third ply, wherein said third ply is at least one flap partially overlapping said second ply and partially overlapping said first ply.

61) The self sealing letter sheet of claim **59)**, wherein said body further comprises at least one score line to aid the user to fold said body.

62) A self sealing form, comprising:

a) a sheet material cut into such a shape that a body and at least one flap are obtained,

b) at least one coating of a fastener and at least one coating of a fastener inhibitor, applied to said sheet material, in such a manner that when said at least one flap overlaps said body, said at least one layer of a fastener faces said at least one layer of a fastener inhibitor,

whereby said at least one flap fastens to said body in a temporarily fashion, and

whereby said self sealing form is manufactured, and is ready to be used.

63) The self sealing form of claim **62)**, wherein said sheet material is paper, said fastener is an adhesive substance and said fastener inhibitor is an adhesive inhibitor substance.

- 64)** The self sealing form of claim 63), wherein said adhesive substance is a pressure sensitive adhesive substance, and said adhesive inhibitor substance is a release substance.
- 65)** The self sealing form of claim 62), wherein said self sealing form is one of a continuous assembly of detachable forms.
- 66)** The self sealing form of claim 62), wherein said body further comprises at least one score line to aid the user to fold said body.
- 67)** The self sealing form of claim 62) wherein said self sealing form further comprises means for detachment of a section of said self sealing form, and said section further comprises:
- c)** a body and at least one flap,
 - d)** at least one coating of a fastener and at least one coating of a fastener inhibitor, applied to said section of said self sealing form, in such a manner that when said at least one flap overlaps said body, said at least one layer of a fastener faces said at least one layer of a fastener inhibitor,
- whereby said at least one flap fastens to said body in a temporarily fashion,
- whereby a detachable subordinate form is produced.

68) A self sealing letter sheet folded so it comprises:

a) a body and

b) at least one flap,

at least one layer of a repositionable adhesive and at least one layer of a dry adhesive, wherein said dry adhesive is susceptible to become active upon being moistened,

and wherein said at least one layer of a repositionable adhesive and said at least one layer of a dry adhesive are disposed so when said at least one flap and said body are in contact to one another, said repositionable adhesive and said dry adhesive avoid facing one another, and said at least one flap and said body are fastened to one another in a temporary fashion by the action of said repositionable adhesive,

whereby said self sealing letter sheet is produced and is now ready to be used.

69) The self sealing letter sheet of claim **68)**, wherein said self sealing letter sheet is one of a continuous assembly of detachable letter sheets.

70) The self sealing letter sheet of claim **68)**, wherein said body further comprises at least one score line to aid the user to fold said body.

In The United States Patent And Trademark Office

Appl. Number: 09/978,215
Appl. Filed: 10/15/01
Applicant: Luis J. Rodriguez
Title: Self Sealing Forms (Formerly Self Sealing Letter Sheets)
Examiner / GAU: Stephen P. Garbe / 3727

RESPONSE TO PAPER #33

Pro-se applicant respectfully submits the following clarifications in response to Paper #33 by Office, as applicant is in disagreement with some of the premises proposed therein.

- 1) Pro-se applicant sought clarification of the meaning of last paragraph of paper #25 by telephone, precisely because if the petition was already ruled as late, —as explained to the Director, Mrs. E. Rollins-Cross — two months later could only make it a fortiori untimely.

However, the response received did not have any conditions or qualifications, as paper 33 now suggests. The response to the question posed to the Director: "If I file a renewed petition, would it be considered on its merits?" was a categorical "Yes". To which applicant added: "Then, I will definitely file it", and applicant, in fact filed it.

Obviously, a different response by the Office would have prompted a different course of action by pro-se applicant.

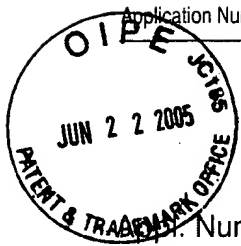
Needless to say that such response was perceived as an agreement, especially in light of the fact that the Director suggested submission of the petition via facsimile transmission.

- 2) The officer in charge of the petition under 37 CFR 1.183, —Mr. Brian Hearn— dismissed the petition to waive any rules, regarding timeliness. However the officer forwarded the other petitions to the Examining Group, for consideration under 37 CFR 1.181.
- 3) The petition filed on January 09, 2003 explained the reasons for "any eventual untimeliness", contrary to what Paper #33 states, that such explanation had not been furnished. Applicant did not elaborate on these reasons on paper of May 26, in view of paragraph #1 above. The wording "eventual untimeliness" further proves that applicant was not certain of such untimeliness, contrary to what Paper #33 states.
- 4) 37 CFR 1.181(f) affords ample discretion to the Director to impart justice beyond any time frame:
"Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely..."
- 5) Paper #29 stated that a "Compelling Rationale" had not been submitted, inferring that such "Compelling Rationale" would have a determining effect in a decision. Paper of May 26 by Applicant proved that such compelling rationale had been submitted, and further, provided a summary thereof. However, paper #33 by Office did not address the issue.
- 6) The summary of Interview submitted on November 22, 2002 (27 days after advisory action), listed in writing all the actions that pro-se applicant complains about, which obviously constituted a tacit petition for remedies.
- 7) Justice is justice. Legally, justice is the interpretation of the law, and the use of all the resources and discretions it affords an officer for its execution and practice. Any deviation from this notion can only amount at best, to legalized injustice.

Respectfully submitted,

Date of Facsimile Transmission: July 05, 2003

Luis J. Rodriguez/ Pro-se Applicant



In The United States Patent And Trademark Office

App. Number: 09/978,215
Appl. Filed: 10/15/01
Applicant: Luis J. Rodriguez
Title: Self Sealing Forms
Examiner / GAU: Stephen P. Garbe / 3727

Summary of Interview

Type of Interview: Telephonic
Date of Interview: October 29, 2002
Participants: Luis Rodriguez (Applicant)
Stephen Garbe (Examiner)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Applicant very respectfully submits a summary of the interview referenced above, as follows:

- 1) Regarding the Advisory Action dated 10/25/02, and particularly the Examiner's allegation that the "elimination of 'at least one', in claim 45 raises a new issue", which was used as the basis to refuse entry of Amendment C, applicant pointed out that Office Action of September 11/02 rejected the same claim 45 under 35 USC 112 for **adding** "at least", and that therefore refusal to enter Amendment C obviously lacks any proper basis, because "elimination of 'at least one' could only overcome the previous rejection.[*]

Applicant respectfully complained about the contradicting actions of the Office, and indicated that they have had a clearly unfair effect in the prosecution of this case, and particularly referred

[*] So there is no confusion on the record:

Applicant elected to remove "at least" from claim 45, instead of disputing the rejection. The September 11/02 rejection was also improper as there were more than adequate antecedents for the expression "at least" (one body) in the original specification, which disclosed more than one body in the 13th and 14th embodiment examples (Figs. 24's and 25's, and corresponding text), and as extensively discussed in Amendment C.

to this instance, since Amendment C, which contains valuable factual information to explain and advance this case for allowance, was refused entry for one of these improper reasons.

Applicant stated that this case felt like a 'catch 22' situation.

- 2)** Regarding the Office Action of September 11/02, Applicant inquired about Examiner's allegation that the phrase 'relates to a blank' constituted new matter in the substitute specification of Aug. 23/02, and his refusal to enter it, pointing out that 'a blank' was **not** new matter, as it was literally recited by original claim 17, and that therefore refusal to enter the substitute specification was improper.

Applicant also indicated that **ATTACHMENT 17** ("*Cross Reference of Substitute Specification to Original Specification*") discusses each individual amendment made by addition, referencing each entry to the specific location where it was discussed in the original specification, and/or offering a legal explanation where pertinent or necessary.

Examiner indicated that if the clarification regarding 'letter size' (on page 1 of Substitute Specification) was not in the original specification, that it would constitute new matter.

Applicant replied that while new *language* was certainly used, no new matter was introduced (Applicant again referred the Examiner to **ATTACHMENT 17**).

And that the reason for this is that the original title "**Self Sealing Forms**" does not inherently convey the size restricting effects as the term "**Letter**" does, because the term "**Letter**", is commonly used to designate 8½" by 11" pieces of paper. And that without the clarification, the amended disclosure may be interpreted to apply **exclusively** to forms (or letter sheets) of 8 ½" x 11" size, limitation that **was not** in the original disclosure.

And that all this clarification does is to prevent the original disclosure to be unduly restricted to an 8 ½" x 11" letter size by the Substitute Specification.

Applicant officially and formally re-stated that there is no new matter in the specification as sworn in the "*Statement of No New Matter*" filed with the "*Request for Continued Examination*".

- 3) Only** claims 50 and 68 were discussed. (*The allusion to claim 45 in # 1) above related to the non-entry of the Amendment. Patentability of claim 45 was not discussed.*)

4) Regarding claim 50, applicant referred Examiner to page 39 of Amendment C, which illustrates claim 50 and all its elements as they relate to a drawing of the invention, in its most basic form.

Upon checking the referenced page, Examiner replied: "I won't allow claims of that scope"

Applicant inquired: "*Why not? That is a picture claim.*"

Examiner replied: "*I don't know what you mean by a picture claim*"

Applicant explained —*what (pro-se) applicant has gathered from different readings*— that a 'picture' claim essentially recites each and every element of the invention.

5) Regarding Claim 68, after reading the pertinent locations in original specification, as pointed out by applicant, Examiner admitted that the repositionable adhesive (204) had been disclosed in original specification (which established the invalidity of the rejection, and hence, the allowability of the claim).

However, Examiner stated that applicant should have indicated where the disclosure of repositionable adhesive was.

Applicant indicated that **Amendment C** pointed out to the many different specific locations in original specification where repositionable adhesive (**204**) was discussed.

6) Examiner mentioned that the application disclosed many different embodiments.

Applicant replied that there are no extension limits for a patent application.

Applicant also indicated that applicant has been diligent in addressing all the issues raised by the Office via arguments and/or amendments and that to assist the Office in examining this case, applicant has supplied numerous illustrated materials and visual aids, which graphically summarize the arguments and that judging by the Office Actions, they all appear to have been ignored by the Office.

Applicant respectfully complained about the depth of this case's examination, in view of the incoherence of Office's Actions with respect to applicant's and Office's own previous communications and stated: "It seems as if this case is not being examined at all"

7) Applicant requested that model of invention [submitted under 37 CFR 1.91(a)(3)] be compared with models of Schieman and Wilbur [submitted under 37 CFR 1.91(a)(1)]

8) In response to applicant's complaints, Examiner indicated that any disagreements should be presented to the Board of Appeals and Interferences, for arbitration.

Applicant replied that he intends to take that course of action, but that the refusal to enter the **Amendment C** and the **Substitute Specification** submitted with the Request for Continued Examination, can only be resolved by The Commissioner, upon Petition, and requested that Examiner reconsidered his decisions regarding these matters, so such procedure can be avoided.

Examiner inquired why applicant wanted the Substitute Specification entered.

Applicant replied that since it was apparent from Office's Actions that the Examiner has misunderstood the invention, as disclosed in the original specification, the specification needed to be amended to better teach the invention, to the Office and to the public.

Applicant further indicated that as per the MPEP, even if something in the substitute specification is perceived as 'new matter', such new matter needs to a) be properly identified, b) objected to and c) required to be canceled.

Applicant asserted his right to have the substitute specification submitted with RCE (amendment B) entered, especially in light of the fact that it contains no new matter and again referred the Examiner to **ATTACHMENT 17**, which is a cross reference of amendments to their initial discussion in the original specification.

-----END OF SUMMARY OF INTERVIEW-----

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Signature:

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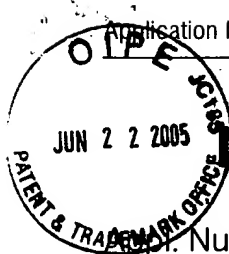
CERTIFICATE OF MAILING:**Date of Mailing:** November 22, 2002

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ET444555035US under 37 CFR 1.10 on the date indicated above, and is addressed to Box AF, Commissioner for Patents, Washington, D.C. 20231

Luis J. Rodriguez, Applicant

Signed:



In The United States Patent And Trademark Office

App. Number: 09/978,215
Appl. Filed: 10/15/01
Applicant: Luis J. Rodriguez
Title: Self Sealing Letter Sheets
Examiner / GAU: Jes F. Pascua / 3727

Reply to Paper 46. Request for Rehearing

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

This paper is submitted concurrently with a notice of Appeal to the Court of Appeals for the Federal Circuit, as yet another effort by Pro-Se Appellant to obtain a responsive answer from the Office regarding this case.

Whether or not this paper may receive or in fact will receive any consideration by the Board or any authority at the Office at this point is unknown to Pro-Se Appellant. However, this paper summarizes Pro-Se Appellant's position about the Board's Decisions and about the prosecution of this case.

Appellant respectfully submits that the Decision on Appeal and the Decision on Request for Rehearing are of no legal effect as they rely on:

- I. A False Supplemental Answer by the Second Examiner of this case, which is further in violation of the Board's remand as discussed below.
- II. A False Interview Summary by Original Examiner of this case as discussed below.
- III. A very large number of misinterpretations or inaccuracies (practically, all items in Paper 46 are affected by this), and also a number of items in the Request for Rehearing that were

unexplainable avoided, as discussed below.

IV. The continued disregard for any and all of the arguments in Reply Brief and Supplemental Appeal Brief by Appellant. These papers simply have not been addressed at all by any PTO's Officer, in flagrant disregard for the law.

Therefore, Appellant once again respectfully Requests a Rehearing of the above Appealed case.

I. Examiner's supplemental answer contains several false statements in grave detriment of Appellant's rights, as pointed out by Appellant's Supplemental Reply. Examiner's supplemental answer is in violation of the Board's specific instructions as pointed out by Appellant's Supplemental Reply. Examiner's supplemental answer is further deceiving by trying to fool the Appeal process into believing that identically duplicated text from Examiners answer was in response to Appellant's disputes as instructed by the board when in fact it was that very text that prompted the disputes. Examiner did not fool Appellant.

Why is the Board completely indifferent to the violation of the remand and its specific, clear instructions? Alternatively, why then, did the Board remand the case?

II. Examiner's Interview Summary of Nov. 1, 2002 is a false document. Examiner lies by assertion (*assertio falsi*) and by omission (*suppressio veri*). Examiner says that all claims were discussed. That is a false statement. Only claims 50 and 68 were discussed. Examiner says that no exhibit was shown. For all practical purposes, the Exhibits were shown, as Appellant requested Examiner to look at the Exhibits, which were in Examiner's possession. If Box 'E', was insufficient to explain this item of the interview, Examiner could have elaborated in the report. However, Examiner completely failed to discuss this critical point of the interview, amounting to another lie by omission.

The falsehood of the Examiner's report is clearly proven by his failure to contest Appellants report of the interview, which is a diametrically opposed account of it.

Summary of Interview by Applicant also points to clear evidence in the record of Examiner's

arbitrariness.

III. Paper 46 is not responsive about the overlooked Reply Brief and Supplemental Reply Brief. Confronted about the silence regarding these issues, the Board unexplainably continues its silence and simply offers assurances and assertions that they were reviewed and considered, pointing to a footnote where the documents are incidentally mentioned, claiming that such mention is evidence of their review and consideration.

Appellant pointed first to the same footnote as evidence that the Board knows about their existence, because that is all that it proves. And then the question raises itself: Why were they not thoroughly addressed?

This and other issues in paper 46 are discussed in further detail below. The arabic numbering of sections corresponds with the roman numbering of sections in paper 46 by the Board.

As a preface to more particulars, Appellant submits that Paper 46 is thoroughly vague and unresponsive. Instead of addressing one single issue raised in Request for Rehearing, it consistently refers to Boards statements in decision of January 28, 2005, which were in fact what prompted the Request for Rehearing. This communication style is the reason that this case has been so excessively long and so excessively unjust.

1. SECTION I

Paper 46 states that Appellant stated that the Board has not considered the Supplemental Brief.

Appellant never made such a statement.

Appellant clearly stated and now re-states that "It is **apparent** that the Board never considered Supplemental Brief submitted by Appellant on July 28, 2004" (First sentence of section 1. on page 1)

Appellant further stated in no uncertain terms that: **"It is established that it [*the Supplemental Brief*] was never addressed"**

This again is one of the issues that has vitiated this Appeal and which makes the Decision of January 28, 2005 and refusal to grant Rehearing of no legal effect.

Regarding the exclusion of Reply Brief and Supplemental Reply Brief in the 'Preliminary Matters' section, Paper 46 suggests that Appellant proposed the conclusion "Therefore must not have been considered"

Appellant never used such language. Appellant clearly submitted and again submits facts as facts.

The rebuttal arguments, and issues raised in those documents were not addressed. That is an established fact. Now, the question begs itself: Why?

The copies attached to paper 46 only prove that the papers were received.

Appellant needs no proof that the papers were received. Appellant perfectly well knows that the papers were delivered as evidenced by USPS Express Mail confirmations and by USPTO stamped postcards.

The question was: Did the papers go to their final destination within the PTO? Appellant has more than enough reasons to wonder. Something funny happened to paper 42 of this case. Please see <http://www.geocities.com/pto3700/978215>.

Now that the question as to whether or not the Board has had access to such documents is mooted, the really relevant question is: Why was there no response to any of the arguments in these documents in the decision of January 28? Why Paper 46 did not address any of the many rebuttal arguments and issues raised in that document.

A Request for Rehearing pointed out that these entire documents have been overlooked, yet paper 46 is consistently indifferent to such critical point.

Paper 46 states that the "Preliminary matters" section was intended to clarify misunderstandings.

With the highest respect, Appellant submits that this is not what the Decision of Jan. 28, 2005 stated. The decision clearly and unequivocally states, in a conclusive fashion: "In this context, we therefore review the supplemental examiner's answer of paper No. 40, mailed July 20, 2004." This is very intriguing. Especially since something funny happened to the paper issued by Examiner after paper 40. (paper 42). The paper between paper 42 and paper 40 is clearly the Supplemental Reply Brief for which no response at all has been produced.

Appellant further submits with the highest respect that the notion proposed by paper 46 that such "Preliminary Matters" section was intended to clarify misunderstandings, does not make sense as it left out very, very important rebuttal documents. That seems to generate misunderstandings, instead of clarifying them.

2. SECTION II

Paper 46 states that Appellant asserts that "these documents have "disappeared".

Appellant never made such assertion.

Appellant very clearly stated that:

"Appellant **suspects** that the reason that Reply Brief and Supplemental Reply Brief are not discussed **could** simply be the fact that just like Supplemental Brief before, they have "disappeared" before the Board could review them." *[Emphasis added]*

Appellant respectfully submits that Appellant is even more persuaded of that possibility now.

Paper 46 states that "appellant states that after reading our decision mailed January 28, 2005, that he re-read the Decision on Petition of June 2, 2003, and now understands **why** certain amendments, attachments and exhibits were not considered by the Examiner,

persuant to the intructions set forth..." *[Emphasis added]*

Appellant never made such a statement.

It is puzzling how paper 46 can make such misinterpretation of such a clear and simple statement.

Appellant clearly stated: "After reading the Decision on Appeal of Jan. 28, 2005, Appellant re-read the decision on Petition of June 02, 2003, and Appellant now correctly understands that not all of the attachments and Exhibits related to Amendment C are in the record."

The misquoting by Paper 46 unfairly suggests that Appellant supports any of the Examiner's actions or inactions, when in fact it is completely and categorically the opposite.

Paper 46 states that "Appellant also states that Amendment C remains in "full force"." and goes on to make some unnecessary clarifications.

Appellant never made such unqualified statement.

Appellant clearly stated: ..."Amendment C is in full force regarding the Appealed claims" *[Emphasis added]*

And Appellant again submits that Amendment C is in full force regarding Appealed claims.

3. SECTION III

Paper 46 states that "Appellant states that the model of Exhibit A has been entered, and this proves the untruthfulness of the Examiner's interview"

Appellant never made such a statement.

Appellant stated and again states that the falsehood of Examiners Interview Summary is proven by his failure to dispute Appellant's Summary of Interview, which reports a completely different account of events. Again, Examiner produced a false Interview

Summary, both by providing false statements and by omitting important issues discussed during the interview. His silence about Appellant's summary is conclusive proof of it.

Since Paper 46 misinterprets Appellant's statements, It is also pertinent to now assert that yes the fact that Examiner failed to report the discussion of the Model and Appellants Requests that it be compared to models of alleged prior art constitutes another incidence of 'suppressio veri', i.e. a lie by omission. Additionally, it is also reiterated, that for all practical purposes, the request that Examiner compared the previously submitted models, already in his possession amounts to a showing of them. How else can the models be shown in a telephonic interview?

Paper 46 suggests that Appellant misunderstands Box e. on page 1 of Examiner's Interview Summary.

Appellant has no confusion about Box e at all. Appellant clearly understands that failure to report at all the discussion of the models is a lie by omission. And furthermore, that yes, for all intends and purposes there was a show of the invention during the telephonic interview upon Appellant's request that models in Examiners possession be compared. Again, for all practical purposes, this makes the answer to item e. suggesting that no Exhibit was shown a lie by assertion, and a lie in a signed public document.

4. SECTION IV

Paper 46 again offers unsubstantiated, unsupported assurances that Reply Brief and Supplemental Reply Brief by Appellant were considered. Appellant respectfully submits that these assurances carry no significance, as there is not one single argument, issue raised or evidence submitted therein that is at all addressed and much less replied to by the Board.

Regarding the issue raised by Appellant about the new rationales by new Examiner, amounting to new rejections, Paper 46 again submits the Boards previous position, without responding to Appellants disputes that::

The basic thrust of the invention does not remain the same, prosecution was closed, appellant did not have a fair opportunity to respond etc. (See page 6 of Supplemental Appeal Brief page 6, starting about middle of page) This is further corroborated by new Examiner when new Examiner states that these reasons were submitted to "buttress" reasons by original Examiner. How is it then, that all the reasons by original Examiner have completely disappeared?

Paper 46 states that "any allegation that an Examiner's answer contains an impermissible new ground of rejection is waived if not timely raised by way of petition under 37 CFR 1.181 (a).

In the specific circumstances at hand, (*i.e., a case under appeal*), this is incorrect.

At the moment that new rationales for the rejection, amounting to new rejections were submitted by new Examiner, Prosecution was Closed and the Director had no jurisdiction over it. It was the Board who had jurisdiction, and it was the Board who failed to address the issues raised by Appellant.

5. SECTION V

Paper 46 refers to previously submitted assurances that the Reply brief and that the Supplemental Reply Brief were addressed. Appellant respectfully submits that these assurances have no legal meaning since they are not supported by an actual discussion of the arguments and evidence submitted or the issues raised therein.

Any possible significance of such assurances is further reduced by the fact that they have a self serving effect.

Appellant further submits with the highest respect that a Request for Rehearing is not to re-argue the case. Request for Rehearing is to indicate "with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which rehearing is sought".

In justifying its decision of January 28 the Board appears thoroughly diligent in addressing all the numbered paragraphs related to the issues overlooked as presented in the 9 pages of the Request, and submits some arguments. Independently from any actual completeness and responsiveness—which are disputed by Appellant—that these arguments may or may not carry, Paper 46 offers some explanations.

What paper 26 fails to recognize is the fact that Reply brief and Supplemental Brief were both completely overlooked in the decision of January 28, as reported in paragraphs 1, 2, 4, 5 and 8 (ix.) of the Request for rehearing; and that Reply Brief is made of 24 pages and Supplemental Brief is made of 7 pages, and that they all merit the same attention that the paragraph by paragraph discussion of the text in the Decision of Mar. 31 to the 9 pages of the Request for rehearing suggests.

(Again, Appellant categorically contends the completeness or responsiveness of such explanations, but that is another issue, which is point by point debated in other parts of this paper)

The question begs itself: Why the continued, systematic silence about Reply Brief and Supplemental Brief?

6. SECTION VI

Paper 46 denies confusion regarding Exhibit A and Affidavit 4. This is actually trivial, but the Decision of January 28, 2005 did confuse Exhibit A with Affidavit 4. See page 3, 3rd paragraph, last 4 lines. Appellant simply offered the correction for the record.

7. SECTION VII

Paper 46 again invokes Board's previously submitted position instead of offering a response to Appellant's dispute of such position, i.e. that the basic thrust of the invention does not remain the same, prosecution was closed, appellant did not have a fair

opportunity to respond etc. (See page 6 of Supplemental Appeal Brief page 6, starting about middle of page)

Paper 46 misportrays Appellants positions about the "New Rejections" issue. Appellant does not contend that the new rejections are so because Examiner Pascua offered new rejections. Appellant clearly and repeatedly indicates that the rationales supporting the rejections are new rationales, and that this amounts to new rejections.

Again the inadmissible duality of rejections is confirmed by the new Examiner's contention that these reasons were submitted to "buttress" reasons by original Examiner. How is it then, that all the reasons by original Examiner have completely disappeared?

The Board again submits the incorrect notion that a perceived new rejection during Appeal is petitionable matter. This is alarmingly troubling. Especially since this is the second time this so gravely incorrect concept is submitted in paper 46. Sadly there will be a third mention of this, later on.

8. SECTION VIII

Paper 46 (starting on page 8) makes perfectly clear that the Board misapprehends the invention. It also makes clear that the Board misapprehends the Request for Rehearing.

Paper 46 states that "Appellant alleges that there is confusion about the claimed invention by the Board because the Board refers to Figure 7a and no other figure"

This is incorrect. Appellant never stated such a thing. It is hard to understand how Appellant's clear statements could have been so badly misinterpreted.

This is a very, very critical and very, very simple thing that needs to be clearly understood.

Paper 46 has unequivocally and emphatically stated that in the context of the first embodiment, it has examined the claims considering more than FIG. 7A. The Board

defensively states that it has also considered Figs. 7b-7f.

That is where the problem resides. Again:

In first embodiment, Fig. 7a is the only figure that illustrates the invention.

Figs 7b-7f illustrate how to use the invention, after the claimed product was produced, as patent law requires that the specification must teach how to use the invention.

35 U.S.C. 112 Specification.

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

All Figures in this Application are an illustration of a written description. And all this written description does is to teach: a) How to make the invention (Fig. 7a in first embodiment), and b) How to use the invention (Figs. 7b-7f) as required by law.

This very simple issue is extremely important. This issue further presents a serious and meaningful contradiction between the Board's claim that it has examined and considered the model, and its emphatic assurance that it considers Figs. 7b-7c as part of the claims. It is again noted that no claim in this application is a "Method" claim. All claims are product claims, and that as such, steps of use are not necessary, and if recited, they have no effect on the claim interpretation. Model of invention does not show any of aspects shown by Figs. 7b-7f. How is it possible that the Board can sustain that:

- A) it understands the invention and that
- B) It has examined the model

It is one or the other, but Board claims both.

It is also noted that Paper 46 does not reply to Request to examine pages 28-30 of Amendment C ("What the Invention Is" and "How to use the Invention". Therefore,

Appellant respectfully points the Board once again to those pages on Amendment C.

On page 10, first para. Paper 46 states that "Appellant reiterates his assertion that the Examiner raised a new ground of rejection by discussing the mono-sectional body of Schieman."

This is incorrect in every respect:

1. This is not what Appellant stated. Appellant clearly stated that

Examiner is "Suggesting with the word maintains that such theory [*that Schieman's body is mono-sectional to the degree that the body is formed from a unitary sheet of material*] was ever submitted during prosecution, when in fact this never happened. Appellant categorically characterized earlier in that very paragraph this misrepresentation for what it is: yet another manifestation of the dishonest quality of the Office's examination.

2. The statement by Appellant that "Prosecution is closed and this is a new rejection" in light of all the previous statements in Request for rehearing, clearly means that the new rationale amounts to a new rejection, after the prosecution was closed, because that is what it is.

3. Appellant respectfully submits that the statement by the Examiner, supported by the Board that Schieman's body is mono-sectional is simply a defiance of common sense. It is simply absurd to claim that the body of an envelope has only one section. By definition, a section is a division of a unit. Hence, by definition a mono-sectional unit is a unit that can not be divided in more than one (mono) section. Schieman's body or any envelope's body can be separated into at least four sections. Please, go to the entered model of the present invention and count all the sections of the body. This obviously excludes the flap, which is the flap. There is only one section in this invention's body.

Additionally, paper 46 fails to address the last paragraph of item 8, iii, of Request for Rehearing stating: "Please see Reply Brief, Page 15." So Appellant again refers the Board

to page 15 of Reply Brief.

Paper 46 offers for the third time the incorrect contention that an impermissible new rejection is a petitionable matter, losing sight of the fact that this case was under appeal when such impermissible new matter occurred, and that therefore the case is solely under the jurisdiction of the Board, not the Director.

Again, Request for Rehearing is NOT to argue the case. We are not in a prosecution phase. Pages 11 and 12 of paper 46 seem to engage in arguments, and worse yet, repeated arguments, instead of offering responses to questions pointing to overlooked or misapprehended items which were raised by Appellant in the Request for Rehearing

Appellant has exhaustively argued his case via a regular examination, continued examination and several rounds of appeals over a period of almost 4 years. Examiner Garbe, Examiner Pascua and the Board have failed to address the arguments submitted in those documents, which have been summarized in the Appeal Brief, Reply Brief, Supplemental appeal Brief and Request for Rehearing related to this and all other issues, which have been consistently ignored by the Board.

Paper 46 is selective of the issues it addresses in item 8 of Request for Rehearing.

Paper 46 trivializes point ii in section 8, by focusing in the marginal issue of the "new rejection", which has already been addressed, while it fails to address the substance of this point which is that:

(whether it is a new or old rejection) the body of an envelope is made of several overlapping sections, which further comprise at least two layers of glue to keep the sections in assembled condition, which in themselves constitute additional sections, and then the contradicting fact that even such inherently false notion is accepted as valid, Examiner's theory that the body of an envelope is "monosectional" because it is originated from a sheet material, is otherwise disproved by the fact that such sheet material also produces the flap(s), whereby the body of the envelope is reduced to a fraction of a

section of the envelope, and hence such body is not "mono-sectional, but rather "semi-sectional". The Board can not have it both ways.

Paper 46 also avoids point v. of item 8, indicating that "if the issue is that the drawings show score lines, then the issue may merit a drawing objection, not a claim rejection" and other important arguments. Why?

Paper 46 also trivializes point vii of section 8 of Request for Rehearing, by addressing something already addressed and avoiding the statement that:

"No individual artisan can be more representative of 'one skilled in the art' than the whole industry and the whole market segment of that industry. The definitions of the Industry and market of the field of the invention and the cited references (alleged prior art) have been clearly defined for the public (for generations) in the packaging of their products, as follows:

- ▶ The packaging of a Ream of paper says **500 SHEETS**.
- ▶ A Box of envelopes says: **ENVELOPES** - XYZ Count, Wherein XYZ indicates the number of pieces in the box.

Please, verify this statement. There is no need to get out of the Office (or Building) for this."

"Paper 46 also avoids point viii of section 8, stating:

Board also misapprehends the simple fact that an envelope is a container, just like a box, and that just like a box, which is also generated from one single sheet, an envelope can not preclude the instant invention due to their radical and categorical structural differences." Why?

CONCLUSION

Paper 46 was not responsive to the overlooked and misapprehended issues as pointed by Appellant's Request for Rehearing. Therefore, a rehearing is again respectfully requested.

Luis J. Rodriguez

-----Pro-Se Appellant-----

CERTIFICATE OF MAILING

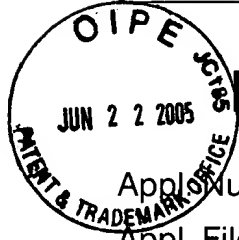
Date of Mailing: April 08, 2005

I hereby certify that this correspondence, including its attachments is being deposited with the United States Postal Service "EXPRESS MAIL TO ADDRESSEE" service # ED 105529021 US under 37 CFR 1.10 on the date indicated above, and is addressed to **Board of Patent Appeals and Interferences**, US patent and Trademark Office, P.O. Box 1450 Alexandria, VA 22313-1450

Luis J. Rodriguez,

Pro-Se Applicant

Signed:.....



In The United States Patent And Trademark Office

App. Number: 09/978,215
Appl. Filed: 10/15/01
Applicant: Luis J. Rodriguez
Title: Self Sealing Letter Sheets
Examiner / GAU: Jes F. Pascua / 3727

REQUEST FOR REHEARING

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

This is respectfully submitted under 37 CFR 1.197 (b) to request a Rehearing regarding the decision with mailing date of January 28, 2005, received on February 02, 2005.

The following are the specific grounds for this request:

1. It is apparent that the Board never considered Supplemental Brief submitted by Appellant on July 28, 2004. It is an established fact that it was not addressed. This is an extremely critical point of this request. Besides disputing arguments by Examiner, Appellant's Supplemental Reply Brief establishes a number of gross false statements by the Examiner.

Neither the Reply Brief or the Supplemental Reply Brief by Appellant are discussed in the prosecution history summarized on pages 2-5 of Decision of Jan. 28, concluding with the statement: "In this context, we therefore review the supplemental examiner's answer of Paper 40, mailed July 20, 2004.

2. As there are proven antecedents of tampering with the record by TC 3700 in this case, Appellant suspects that the reason that Reply Brief and Supplemental Reply Brief are not discussed could simply be the fact that just like Supplemental Brief before, they have "disappeared" before the Board could review them.

To make sure that these papers are in fact in the record, and that they are duly examined and considered, Appellant submits new copies of these documents. Likewise, copy of the Summary of Interview of Oct. 29, 2002 submitted by Applicant on 11/22/2002 is also enclosed.

Previous tampering and other actions by both Examiners in this case have been the object of complaints to the General Counsel Office and the Commissioner's Office.

To prevent any chance of any other sabotaging actions, a copy of this paper and its attachments is also sent to the Commissioner's and General Counsel's Offices.

Documentation about these issues is available at

<http://www.geocities.com/pto3700/978215>

Important Clarification

After reading the Decision on Appeal of Jan. 28, 2005, Appellant re-read the Decision on Petition of June 02, 2003, and Appellant now correctly understands that not all of the Attachments and Exhibits related to Amendment C are in the record.

It is clear now that any allusion to some of these attachments and exhibits by Appellant in Appeal Brief, Reply Brief, or Supplemental Reply Brief is moot. However, Amendment C itself is in full force regarding the Appealed claims.

Likewise, Exhibit A is in the record.

And the Summary of Interview by Applicant submitted on 11/22/02, is also in the record. Exhibit "F" was a new copy of it submitted with the Supplemental Appeal Brief, and it is not in the record.

The bottom line is that the Summary of Interview by Appellant is in the record, and it is a very important document of this case. This is very important in light of footnote (1) on page 7 of Decision on Appeal (Paper 44)

- 3.** The undisputed Interview Summary by Appellant submitted on 11/22/02 and recorded as "Miscellaneous Letter" in the History Log of this case proves the Examiner's Summary was untruthful both my assertion and by omission.

Examiner reports things that did not happen and failed to address relevant issues discussed during the interview. Among others, the **admitted** (37 C.F.R. 1.91(a)(3)) on the record EXHIBIT A. This exhibit moots any other argument by the Examiner.

See first paragraph of page 4, of Applicant's Summary of Interview, where the presentation of the entered model and its comparison with the cited art was discussed.

EXHIBIT A is in the Record, as per 37 CFR 1.191 (a)(3). Furthermore, EXHIBIT A was discussed during Interview of October 29, 2002, and as reported by Applicant's Summary of Interview of 11/22/02, (page 4, 1st paragraph) and it is therefore entitled to full consideration.

- 4.** Silence about Reply Brief and Supplemental reply Brief is of alarming significance, especially in the circumstances of the present Appeal:
- a. The Appeal Brief was filed in Response to the final rejection by Examiner 1
 - b. The Examiner Reply Brief was filed by Examiner 2.
 - c. The Reply Brief abandoned all the reasons for rejection from Examiner 1, and Introduced new ones.
 - d. Appellant's Reply Brief was submitted in Response to Examiner 2 Reply, and pointed this out.
 - e. Board Remanded the case.
 - f. Examiner 2 basically recycled his Reply Brief (This is proven in Appellant's Supplemental Brief) added some marginal issues, and stated that

«there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection»
 - g. This was utterly disputed in Reply Brief (Page 6, about middle of page). The only opportunity that Appellant has had to react to these rejections was after the Examiner's Reply Brief, i.e. after prosecution ended. And it is perplexingly obvious that not even then

his arguments to these new rejections have been considered given the absolute silence regarding Appellant's Reply Brief or Appellant's Supplemental Brief.

5. Decision of January 28, repeatedly refers to Appellant's position as being set forth on page such and such of the Appeal Brief, which is only partially correct. Decision of January 28 systematically ignores any rebuttals submitted with Reply Brief and Supplemental Brief. Why?
6. The Decision on Appeal appears to confuse Exhibit A with Affidavit 4 (Page 3, 3rd paragraph). Affidavit 4 was denied entry in the record. Exhibit A (model) was entered in the record, under 37 CFR 1.91 (a) (3) and it is due full consideration. Exhibit A was in fact presented during Interview of October 29, 2002, as reported in Applicants Summary of Interview. Summary of Interview is in the record as it was timely submitted on 11/22/02.
7. This has been clearly overlooked: A Patent Examiner in a particular field is to be considered of average skill in that field, and if the anticipation and obviousness issues alleged by another Examiner are in fact such, there should be total agreement between the two Examiners. However, the new Examiner opted to disregard all previous reasons for rejections, submitted during prosecution in favor of his own, submitted after prosecution was closed, (i.e. amounting to new rejections.)

Thus, the allegations of obviousness and anticipation by the original Examiner have been clearly and conclusively disproved by the second Examiner.

8. The following is to briefly address some particulars that have been overlooked and/or misapprehended:
 - i. There is clearly a confusion about the claimed invention evident in first paragraph of page 10 of Decision of Jan. 28.

The claimed Invention is illustrated with FIG. 7A, and no other figure.

And FIG 7A actually illustrates more than the claimed invention, because it shows some optional score lines, that only appear in dependent claims.

In addition to show how to produce the invention, the specification must also show how to use the invention. Hence, FIGS. 7B-7F.

Also, please refer to Pages 28-30 of Amendment C. ("What the Invention Is", and "How to Use The Invention"). These conclusive illustrated arguments also appear to have been overlooked.

- ii. Appellant has protested the new and *very creative* theory presented by the new Examiner to justify citing Schieman (or an envelope) against the appealed claims, which amounts to a new and hence forbidden rejection.

Paraphrasing, the new theory is that:

because an envelope is made of a single blank of a sheet of paper its body remains mono-sectional, regardless of how many panels, how many coatings of glue and how many overlaps of layers are involved in this body; and further disregarding the fact that such 'single' piece of a sheet material also produces the flaps, thereby reducing the body to just a fraction of such section. Hence the body would not be "mono-sectional" but rather "semi-sectional" or "partially-sectional" or whatever language best suits the case, but never 'mono-sectrional.

- iii. Appellant has also protested the dishonest manner in which this new theory was presented:

"The Examiner maintains that the body of Schieman is mono-sectional to the degree that the body is formed from a unitary sheet of material."

Suggesting with the word 'maintains' that such theory was ever presented during prosecution. Prosecution is closed and this is a new rejection. Not to mention an absurd one, as exhaustively explained in reply Brief.

Please see Reply Brief, Page 15.

- iv. As for the alleged lack of clarity of the term "mono-sectional", Decision overlooks MPEP 2173.05 (e)

MPEP 2173.05 (e) «...There is no requirement that the words in the claim must match those used in the specification disclosure. Applicants are given a great deal of latitude in how they choose to define their invention so long as the terms and phrases used define the invention with a reasonable degree of clarity and precision.»

v. Or that the language must suit the Examiner's preferences. MPEP 2173.02.

The term mono-sectional can not be any more clear and specific in this or any other context. Any means of division is what would provide more than one section, and as there is not such a thing, (in the claims), there is simply and clearly only one section.

If the issue is that the drawings show score lines, then the issue may merit a drawing objection, not a claim rejection. The term fully complies with 112, as the combination of the prefix mono and the word sectional indicate in proper academic English: Having one Section. There is no "Special Meaning" involved nor Appellant is acting as his own lexicographer.

Furthermore, as the term was introduced in an effort to provide even further distinction over the cited reference(s), any possible lack of literal support in the specification, can easily be overcome with a minor amendment to such specification.

And further yet, as the original claims constitute part of the specification, and none of these claims recite score lines, the notion that the term 'body' needs to be interpreted using a particular embodiment is faulty. if ever recited, score line(s) appear in dependent claims. Please, see graphic discussion of claim 50 on page 59 of Amendment C. See Exhibit A.

Vi. Another important overlooked or misapprehended aspect is that even if hypothetically considering (**only hypothetically, because this an impossible notion**) the bodies of an envelope and the letter sheet of the present invention have comparable attributes, the structure of the 'flaps' alone is so different that these differences by themselves confer patentability to the claims.

Please refer to pages 41-52 in Amendment C. Schieman's first embodiment has a flap and a 'sub-flap' or a 'flap's flap'. Schieman's Second Embodiment has a 'flap to the body' and a 'flap to one of the walls of the body". How does that reconcile with the rejections?

Wilbur's first embodiment is identical to Schieman's second embodiment. Wilbur's second embodiment is similar the first embodiment, except that it has coatings on two sides of the sheet material. Again, How does that reconcile with the rejections?

vii. Decision of Jan. 28 overlooks a crucial and simple fact: A sheet of paper is a sheet of paper, and an envelope is a container. The envelope ceased to be a sheet of paper as soon as it became an envelope.

No individual artisan can be more representative of 'one skilled in the art' than the whole industry and the whole market segment of that industry. The definitions of the Industry and market of the field of the invention and the cited references (alleged prior art) have been clearly defined for the public (for generations) in the packaging of their products, as follows:

- ▶ The packaging of a Ream of paper says **500 SHEETS**.
- ▶ A Box of envelopes says: **ENVELOPES** - XYZ Count, Wherein XYZ indicates the number of pieces in the box.

Please, verify this statement. There is no need to get out of the Office (or Building) for this.

viii. Board also misapprehends the simple fact that an envelope is a container, just like a box, and that just like a box, which is also generated from one single sheet, an envelope can not preclude the instant invention due to their radical and categorical structural differences.

ix. Again, the Reply Brief and Supplemental Brief seem to have been completely overlooked. This is another particular example:

The contention that Appellant's remarks regarding interaction of release and Pressure Sensitive Adhesive are "opinion" was disproved by Reply Brief (page 17). Reply Brief referred Examiner to Appeal Brief, pages 21(para. 5) through page 24.i. On page 12, Decision of January 28, 2005 claims that Appellant does not dispute the teachings of Johnson as discussed by the Examiner.

Not only has Appellant disputed all the arguments by both, the original Examiner and the new Examiner before and after prosecution closed, but Appellant has established that it is the Examiner who has failed to consolidate the teachings. What part of what reference goes with what part of the other reference and how. See page 17 of Reply Brief by Appellant.

Thus, replacing a dry adhesive for a Pressure Sensitive Adhesive as proposed, simply to justify

the use of another otherwise completely unnecessary release coating, can only be one of these two things: 1) Undue Hindsight 'anticipation' or 'prima facie', or more likely: 2) Invention. And this is only assuming that both of the two cited references are in fact analogous art, which they are not.

- x. On page 13 the Decision of Jan. 28 states the position of the Examiner in the Supplemental regarding some mode of producing the letters as if that was the issue presented by Appellant, and as if this was never before addressed by Appellant.

Appellant clearly indicated (paragraph between pages 18 and 19 of reply Brief) that the discussion of the production of the form and the problems associated with it, is not to evaluate the mode of production. The mode of production is irrelevant to product claims. This argument was presented as evidence that there is absolutely no reason, motivation or expectation of success in such combination. And this evidence remains uncontested.

AGAIN: All arguments and rebuttals to rejections by Appellant in Reply Brief and Supplemental reply Brief by Examiner remain unaddressed. Why?

It is clear that the Board knows of their Existence, as Reply Brief prompted the Remand which had urgent instructions to act immediately, given the Special status of this case, and at least page 9 (last para.) Of Decision of Jan. 28 mentions (Appellant's) Supplemental Brief.

For all the preceding, Appellant respectfully requests Rehearing of the Appeal and full consideration of all the overlooked items and issues specifically discussed herein and in Appellant's Reply Brief and Appellant's Supplemental Reply Brief.

Appellant was deprived of a fair Examination. Appellant certainly deserves a fair appeal.

Respectfully submitted,

Luis J. Rodriguez

-----Pro-Se Appellant-----

CERTIFICATE OF MAILING**Date of Mailing:** February 05, 2005

I hereby certify that this correspondence, including its attachments is being deposited with the United States Postal Service "EXPRESS MAIL TO ADDRESSEE" service # ED 560571471 US under 37 CFR 1.10 on the date indicated above, and is addressed to **Mail Stop Appeal Brief-Patents**, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

Luis J. Rodriguez,

Pro-Se Applicant

Signed:.....